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STATE OF NEW MEXICO
ENERGY, MINERALS, AND NATURAL RESOURCES DEPARTMENT
OIL CONSERVATION DIVISION

IN THE MATTER OF THE HEARING
CALLED BY THE OIL CONSERVATION
DIVISION FOR THE PURPOSE OF
CONSIDERING:
Case No. 25804.

HEARING
DAY 2
DATE: Friday, February 27, 2026
TIME: 8:11 a.m.
BEFORE: Hearing Examiner Gregory Chakalian
LOCATION: Remote Proceeding
Santa Fe, NM 87501
REPORTED BY: Gerald Aragon
JOB NO.: 7791225

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A P P E A R A N C E S

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ALSO PRESENT:

Freya Tschantz, Legal Aide, New Mexico Oil
Conservation Division (by videoconference)
John Garcia, Technical Examiner, New Mexico Oil
Conservation Division (by videoconference)

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I N D E X

WITNESS(ES):	DX	CX	RDX	RCX
SHELBI MCKEE				
By Ms. McLean	6		73	
By Ms. Shaheen		20		
By Mr. Garcia		66		
PAUL BROWN				
By Ms. McLean	75			
By Ms. Shaheen		90		
By Mr. Garcia		95		

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E X H I B I T S

NO.	DESCRIPTION	ID/EVD
Case 25804:		
Exhibit XTO		
A-8	Mack Energy C-102/Amended APD	7/8
Exhibit XTO		
B-7	Optimal Development Plan	83/84
Exhibit		
Longfellow 1	2025 Emails	34/105

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P R O C E E D I N G S

THE HEARING EXAMINER: Good morning.
It is 8:11 on February 27. We are continuing the
Longfellow, XTO contested hearing. Yesterday we
concluded Longfellow's case in chief. We admitted all
exhibits from Longfellow except Rebuttal Exhibit 1.
Today we are hearing from XTO.

We have already admitted Ms. Shelbi
McKee as an expert in petroleum land matters and Paul
Brown as an expert in petroleum geology. We have
admitted all of XTO's exhibits with the exception of
Rebuttal A-8 and Rebuttal B as in boy 7.

Ms. McLean?

MS. MCLEAN: Yes. Thank you. I'd like
to call XTO's first witness, Ms. Shelbi McKee.

THE HEARING EXAMINER: Actually, let me
ask both of you to raise your right hands, please.

Do you swear or affirm under penalty of
perjury that the testimony you're about to give is the
truth, the whole truth, and nothing but the truth?

MS. MCKEE: I do.

MR. BROWN: I do.

THE HEARING EXAMINER: I heard two "I
do"s. Thank you very much.

Sorry, Ms. McLean. Go right ahead.

1 MS. MCLEAN: Oh, no worries.

2 DIRECT EXAMINATION

3 BY MS. MCLEAN:

4 MS. MCLEAN: Ms. McKee, thank you for
5 being with us this morning. Have you provided direct
6 testimony and exhibits in this case?

7 MS. MCKEE: I have.

8 MS. MCLEAN: And have those documents
9 been marked as Exhibit A and Subexhibits A-1 through
10 A-7?

11 MS. MCKEE: They have.

12 MS. MCLEAN: And do you have any
13 corrections to your exhibits at this time?

14 MS. MCKEE: I do not.

15 MS. MCLEAN: Maybe -- make sure you're
16 speaking up loudly. It's a little hard to hear. Just
17 want to make sure everyone can hear today. And do you
18 adopt your written testimony as your direct testimony
19 in this matter?

20 MS. MCKEE: I do.

21 MS. MCLEAN: Thank you. And have you
22 reviewed the exhibit submitted by Longfellow's
23 landman?

24 MS. MCKEE: Yes, I have.

25 MS. MCLEAN: And what's your

1 understanding of Longfellow's position in this case?

2 MS. MCKEE: Longfellow wants to pool
3 the south half of Section 33 that we've been
4 discussing as their Van Halen CD development.

5 THE HEARING EXAMINER: Speak up.

6 MS. MCKEE: And they have indicated to
7 ExxonMobil or XTO that they do not actually intend to
8 drill the horizontal well, despite the compulsory
9 pooling order that they've applied for.

10 BY MS. MCLEAN:

11 MS. MCLEAN: And do you recall Ms.
12 English's testimony yesterday about XTO requesting
13 Mack re-permit its already approved wells in the south
14 half of Section 32?

15 MS. MCKEE: I do.

16 MS. MCLEAN: I'd like to show you
17 what's been marked as XTO's Rebuttal Exhibit -- sorry.
18 Let me -- Rebuttal Exhibit A-8, and I will share my
19 screen with everyone.

20 Okay. Can everyone see this C-102 on
21 the screen, our Exhibit A-8?

22 (XTO Exhibit A-8 was marked for
23 identification.)

24 THE HEARING EXAMINER: Oh, boy.

25 MS. SHAHEEN: I'll just -- I'll make

1 things easier for us this morning. We -- Longfellow
2 withdraws its objection to this exhibit.

3 MS. MCLEAN: Okay. Thank you, Ms.
4 Shaheen.

5 THE HEARING EXAMINER: Ms. McLean, what
6 exhibit number is this?

7 MS. MCLEAN: This is Rebuttal Exhibit
8 A-8.

9 THE HEARING EXAMINER: Okay. Exhibit
10 A-8 is admitted into evidence by stipulation. Thank
11 you.

12 (XTO Exhibit A-8 was received into
13 evidence.)

14 MS. MCLEAN: Thank you.

15 BY MS. MCLEAN:

16 MS. MCLEAN: So let's look at what's
17 been marked as Exhibit A-8. Can you tell me what this
18 is?

19 MS. MCKEE: Yes. This is Mack Energy's
20 C-102, their amended APD.

21 MS. MCLEAN: And is this the permit
22 that Ms. English was referring to yesterday?

23 MS. MCKEE: It is.

24 MS. MCLEAN: And do you know if Mack
25 has filed this C-102 as part of the APD for the

1 spacing unit with the BLM?

2 MS. MCKEE: Yes, they have.

3 MS. MCLEAN: And this APD is actually
4 an amended APD; correct?

5 MS. MCKEE: That's correct.

6 MS. MCLEAN: And do you know if the
7 original APD was approved?

8 MS. MCKEE: It was approved.

9 MS. MCLEAN: And let's look at -- I'm
10 going to go to page 2 of Exhibit A-8, which is a plat
11 of the spacing unit. And can you tell me where the
12 surface hole location is located?

13 MS. MCKEE: It is on XTO's lease.

14 MS. MCLEAN: And where exactly, like
15 the section and location?

16 MS. MCKEE: I'm sorry. At the south
17 half -- yeah, south half of Section 3. It's
18 specifically the west half of the southwest quarter.

19 MS. MCLEAN: Did you mean Section 33?

20 MS. MCKEE: I'm sorry. Thirty-three.
21 Yes.

22 MS. MCLEAN: It's okay. And so this
23 surface hole location, has this actually already been
24 approved by the BLM?

25 MS. MCKEE: Yes, it has.

1 MS. MCLEAN: So there -- the BLM has
2 actually approved a surface hole location on Section
3 33; is that correct?

4 MS. MCKEE: Yes. Mack has permitted
5 surface hole locations on XTO's lease. That's
6 correct.

7 MS. MCLEAN: And has Mack told you
8 anything about the timing of drilling this well on
9 your lease?

10 MS. MCKEE: Yes. They have told us
11 that they can start building location within ten days,
12 and that was a few days ago. And they also have a rig
13 contracted.

14 MS. MCLEAN: And that building
15 location, which is the surface hole location in
16 Section 33, has already been approved by the BLM?

17 MS. MCKEE: Yes, it has.

18 MS. MCLEAN: And do you know if
19 Longfellow's surface hole location and APD have been
20 approved by the BLM at this point?

21 MS. MCKEE: I do not believe so.

22 MS. MCLEAN: Now I'd like to ask -- let
23 me stop sharing this really quick. Would you like to
24 provide any rebuttal statements to Ms. English's
25 testimony in addition to your rebuttal exhibit?

1 MS. MCKEE: Yes, I would.

2 MS. MCLEAN: Okay. Let's go. Okay.
3 Sorry. There's a lot of different packets here to go
4 through.

5 MS. MCKEE: Are you guys hearing me
6 okay?

7 MS. MCLEAN: A little better. It
8 doesn't hurt to just, you know, really enunciate.

9 MS. MCKEE: I'll speak up.

10 MS. MCLEAN: You won't offend anyone,
11 except maybe Mr. Brown in the room with you.

12 MR. BROWN: I'll be fine.

13 BY MS. MCLEAN:

14 MS. MCLEAN: Okay. Let me show you
15 what -- Ms. English's testimony. We heard about this
16 yesterday. And specifically starting with this
17 paragraph 20, XTO's claimed ownership and record title
18 status.

19 And Ms. English disputes that XTO owns
20 a hundred percent of the working interest in Tracts 2
21 and 3. Can you just explain for us why XTO owns a
22 hundred percent of these two tracts?

23 MS. MCKEE: Yes. XTO is the record
24 title holder. We granted a term assignment in 2004 to
25 OXY. As part of that term assignment, it specifically

1 states that there are conditions that have to be met,
2 which are drilling and producing wells, to maintain
3 the term assignment.

4 Those conditions are no longer met, and
5 so XTO is automatically owed these reassignments. So
6 Exxon -- or XTO is the record title holder.

7 MS. MCLEAN: And why hadn't any of
8 these reassignments been filed with the County or made
9 of record?

10 MS. MCKEE: We have filed one of the
11 reassignments, and we've been working on obtaining the
12 reassignments from the other parties.

13 MS. MCLEAN: And is it required to file
14 these with the County for them to be valid
15 reassignments?

16 MS. MCKEE: It -- it is -- it is not.
17 A party would be able to see by the term assignment
18 that is filed of record. All of the terms of the term
19 assignment are available publicly, and so a party
20 reviewing the term assignment would see that XTO is
21 the record title holder.

22 MS. MCLEAN: And did XTO, as Longfellow
23 claims, start assembling these title documents in
24 response to Longfellow's pooling applications?

25 MS. MCKEE: No. XTO had already

1 started working on the reassignments after the Acacia
2 bankruptcy was brought to our attention, and then
3 also, Mack Energy had reached out to us about
4 reassignments being owed to ExxonMobil.

5 MS. MCLEAN: And to be clear, you
6 didn't hear about the Acacia bankruptcy from
7 Longfellow; did you?

8 MS. MCKEE: No.

9 MS. MCLEAN: But you did hear about
10 this July 2026 lease termination issue from
11 Longfellow; correct?

12 MS. MCKEE: Yes.

13 MS. MCLEAN: Thank you. And then Ms.
14 English also takes issue with the fact that XTO hasn't
15 prioritized development of these tracts for many
16 years; is that right?

17 MS. MCKEE: She does.

18 MS. MCLEAN: And was XTO required to
19 initiate development on its lease during this time
20 period?

21 MS. MCKEE: No. No, because there were
22 other parties that were responsible for that via the
23 term assignment that we had granted in 2004 that
24 afforded other companies the opportunity to develop
25 the lease. And also, the lease was, up until

1 recently, held by production from the Acacia wells.

2 MS. MCLEAN: Let's talk about the
3 negotiations between Longfellow and XTO, which we
4 heard a lot about yesterday.

5 Do you agree with Ms. English's
6 statement in paragraph 31 that -- of her testimony
7 that XTO withdrew its protest of the Van Halen
8 application as a show of good faith based on
9 Longfellow's assurances that negotiations would
10 continue?

11 MS. MCKEE: I do agree with that.

12 MS. MCLEAN: So tell me about the
13 February 3rd meeting, just in your own words,
14 the -- those discussions.

15 MS. MCKEE: Longfellow came down to
16 XTO's offices. There were about -- there were three
17 Longfellow representatives and six XTO
18 representatives.

19 They had indicated prior to the meeting
20 that they wanted to bring a proposal forward to us
21 that would ensure maintaining our leases and -- and
22 development of the acreage.

23 So they -- they did, and during that
24 proposal, they had indicated that they would only move
25 forward with the development that they had proposed to

1 XTO via the well proposals and then under the order if
2 XTO would term assign acreage to them that was
3 unrelated to Van Halen.

4 They also wanted XTO to agree to a deal
5 outside of the Van Halen CD area and if XTO did not
6 agree to these terms that they would not drill the
7 horizontal well due to the cost and expense of
8 drilling the horizontal well -- or cost and risk of
9 drilling the horizontal well.

10 And they would instead drill a vertical
11 well to maintain Longfellow's acreage, which would
12 mean that XTO's acreage would terminate, because we
13 would be beholden to the compulsory pooling order and
14 unable to develop our own acreage.

15 MS. MCLEAN: Okay. And let me show you
16 Ms. English's testimony at paragraph 33. Hold on one
17 second. Okay. Okay. Paragraph 33. Do you see that
18 up here on the screen?

19 MS. MCKEE: I do.

20 MS. MCLEAN: And that sets forth -- or
21 sorry. Paragraph 32. That sets forth the
22 comprehensive proposal that Ms. English gave to XTO
23 during that February 3rd meeting?

24 MS. MCKEE: Yes.

25 MS. MCLEAN: And did you -- what did

1 you understand about this proposal?

2 MS. MCKEE: I understood that this
3 was -- all of these things had to be met in order for
4 Longfellow to actually drill the horizontal well, that
5 we would have to assign our leasehold in the section
6 that we've been discussing, that we would also have to
7 do a deal with them on acreage that is unrelated to
8 Van Halen in a different part of the play area, and
9 then if we would not agree to those that they would
10 not drill the horizontal well.

11 So these -- these were not an "or" type
12 situation. It was more of an "and" situation. Also,
13 you know, it -- it was apparent to us that it
14 wouldn't -- the options under the order would not be
15 available to us. It was only the terms that were
16 presented by Longfellow.

17 MS. MCLEAN: And in paragraph 33, Ms.
18 English states that during the February 3rd meeting,
19 she attempted to understand ExxonMobil's objectives by
20 asking directly, "Do you want working interests, or do
21 you want barrels?" ExxonMobil's response was "It
22 depends." What did you mean by "It depends"?

23 MS. MCKEE: So at the time this
24 question was asked, it was after Longfellow had
25 presented their proposal to us. So the reason why I

1 said it depends is because we were no longer just
2 talking about Van Halen CD.

3 We were now talking about Van Halen CD
4 and then the acreage that was in another portion of
5 the play area.

6 And so if it's -- if we're talking
7 about Van Halen CD, then we had been talking about a
8 term assignment, which would indicate that we were
9 interested in the barrels and not the working
10 interest.

11 If we were talking about the other
12 section that Longfellow was interested in, then we
13 might be talking about something else, depending on
14 Paul's team's economic evaluation of the -- the
15 acreage.

16 MS. MCLEAN: Okay. And when you left
17 the February 3rd meeting, what was your belief in
18 Longfellow's desire to complete the Van Halen wells?

19 MS. MCKEE: We did not -- we did not
20 have confidence that Longfellow wanted to move forward
21 with drilling a horizontal well. We left with the
22 impression that Longfellow was going to compulsory
23 pool the acreage and subsequently drill a vertical
24 well.

25 MS. MCLEAN: And if that happened, what

1 would happen to XTO's lease?

2 MS. MCKEE: It would be stranded, and
3 it would expire.

4 MS. MCLEAN: And what was -- after the
5 February 3rd meeting, what was your understanding and
6 Longfellow's ability to actually complete the Van
7 Halen wells?

8 MS. MCKEE: Longfellow expressed to us
9 several times, both verbally in the February 3rd
10 meeting and then in follow-up emails, that there was
11 significant costs and risk associated with drilling
12 the horizontal well. And so it -- Longfellow did not
13 express confidence.

14 And we did not feel -- in turn, we did
15 not feel confident that they would execute on the
16 horizontal well.

17 MS. MCLEAN: And then at paragraph 56
18 of Ms. English's testimony --

19 THE HEARING EXAMINER: Ms. McLean?

20 MS. MCLEAN: Yes.

21 THE HEARING EXAMINER: How much more
22 time do you think you're going to need?

23 MS. MCLEAN: Oh, not too much more
24 time.

25 THE HEARING EXAMINER: Okay.

1 BY MS. MCLEAN:

2 MS. MCLEAN: And she states that XTO
3 has taken no independent action to preserve its
4 leasehold. Do you agree with that statement?

5 MS. MCKEE: No. We received the well
6 proposals from Longfellow August 1st, and so we -- and
7 we had been working with Longfellow on the, you know,
8 negotiations since that time.

9 And in addition to that, after we found
10 out on February 3rd that Longfellow did not intend to
11 develop the acreage as proposed, we immediately
12 reached out to Mack to begin talking about an
13 alternative for XTO's acreage.

14 MS. MCLEAN: Okay. In your opinion,
15 will Longfellow's development plan best prevent waste
16 and protect correlative rights?

17 MS. MCKEE: No. Longfellow's proposals
18 are more expensive for these type of wells than other
19 parties. Additionally, their development plan
20 is -- is dense relative to other parties.

21 MS. MCLEAN: And would Longfellow's
22 plan actually result in waste and violate XTO's
23 correlative rights?

24 MS. MCKEE: Yes, it would.

25 MS. MCLEAN: Can you please summarize

1 the reasons for that?

2 MS. MCKEE: Because Longfellow does not
3 intend to drill the horizontal well, and so it will
4 not maintain XTO's lease.

5 MS. MCLEAN: Thank you. I have no
6 further questions.

7 MS. SHAHEEN: Mr. Examiner, you're on
8 mute.

9 THE HEARING EXAMINER: Thank you.

10 And now that my computer is back up and
11 running, Ms. McLean, thank you.

12 Ms. Shaheen.

13 MS. SHAHEEN: Thank you.

14 CROSS-EXAMINATION

15 BY MS. SHAHEEN:

16 MS. SHAHEEN: Turning to Ms. English's
17 statement, paragraph 21.

18 MS. MCLEAN: Sharon, do you want me
19 to --

20 MS. SHAHEEN: I'll share.

21 MS. MCLEAN: Okay.

22 BY MS. SHAHEEN:

23 MS. SHAHEEN: Do you see paragraph 21?

24 MS. MCKEE: Yes. Yes, ma'am.

25 MS. SHAHEEN: Sorry. I'm going to have

1 to stop sharing for a second, because my notes are on
2 the same screen. Hold on.

3 MS. MCKEE: Okay.

4 MS. SHAHEEN: Okay.

5 THE HEARING EXAMINER: Ms. Shaheen, you
6 don't have to share as long as the witness has a copy
7 of the document --

8 MS. MCKEE: I do.

9 THE HEARING EXAMINER: -- and knows
10 what paragraph. It'd be easier if you don't share.

11 MS. SHAHEEN: Oh.

12 MS. MCKEE: I can -- I do have Ms.
13 English's testimony. I can -- I can look at it.

14 THE HEARING EXAMINER: Thank you, Ms.
15 McKee.

16 BY MS. SHAHEEN:

17 MS. SHAHEEN: Okay.

18 MS. MCKEE: I do not have exhibits
19 printed.

20 MS. SHAHEEN: Okay. Well, then I'll
21 share exhibits when we get there.

22 MS. MCKEE: Okay.

23 MS. SHAHEEN: So with respect to
24 paragraph 21 here, do you see the third line here,
25 "LFE does not dispute that XTO may ultimately be

1 entitled to 100 percent of the working interest in
2 both tracts"? Do you see that?

3 MS. MCKEE: I do.

4 MS. SHAHEEN: So the testimony earlier,
5 Ms. McLean's earlier representation of Ms. English's
6 statement that LFE does not believe XTO has a hundred
7 percent of the interest is not correct; isn't that
8 right?

9 MS. MCKEE: I -- I believe so, but
10 I -- I do think Ms. English has acknowledged that XTO
11 has interest in these tracts.

12 MS. SHAHEEN: And is it your
13 understanding that Ms. English has indicated that LFE
14 understands XTO has a hundred percent interest in the
15 subject tract?

16 MS. MCLEAN: Objection, form.

17 THE HEARING EXAMINER: I'm not sure
18 what the objection is. I don't see a problem with the
19 form of the question.

20 But that being said, Ms. Shaheen, I'm
21 not sure this is beneficial. I -- the facts are the
22 facts, and I don't think that it's going to matter to
23 the division whether or not this witness understands
24 that your witness thought whatever she thought.

25 Let's -- if we could at least get to

1 the relevant parts of this.

2 MS. SHAHEEN: Okay. Let me rephrase
3 the question.

4 THE HEARING EXAMINER: Thank you.

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: In paragraph 21, does Ms.
7 English state "LFE does not dispute that XTO may
8 ultimately be entitled to 100 percent of the working
9 interest in both tracts"; correct?

10 MS. MCKEE: She did.

11 MS. SHAHEEN: And is it true that Ms.
12 English's position is that XTO does not have record
13 title to 100 percent of the working interest in both
14 tracts? Is that right?

15 MS. MCKEE: That is Longfellow's
16 assertion, yes.

17 MS. SHAHEEN: You also discussed
18 negotiations from the February 3rd meeting with Ms.
19 McLean. Do you remember that?

20 MS. MCKEE: Yes, ma'am.

21 MS. SHAHEEN: Do you have any notes
22 from this meeting that support your testimony today?

23 MS. MCKEE: I do.

24 MS. SHAHEEN: But you haven't produced
25 those or offered them as an exhibit; have you?

1 MS. MCKEE: No, I have not. I included
2 comments from the February 3rd meeting in my
3 testimony.

4 MS. SHAHEEN: I'm going to turn back to
5 your Exhibit A-1, and I will share now.

6 MS. MCLEAN: Is this Ms. McKee's
7 resume?

8 MS. SHAHEEN: Yes. Well, it will be
9 once I get there. PDF page 7.

10 BY MS. SHAHEEN:

11 MS. SHAHEEN: I'm -- I assume you're
12 familiar with your resume, Ms. McKee?

13 MS. MCKEE: Yes, ma'am.

14 MS. SHAHEEN: At the top here, it
15 states that you've -- you're currently working as the
16 area commercial and land manager; is that correct?

17 MS. MCKEE: Yes.

18 MS. SHAHEEN: And in the line directly
19 below that, it says "from July 2026." I'm assuming
20 you mean from July 2025; is that right?

21 MS. MCKEE: Yes. Yes, I do. That's an
22 error.

23 MS. SHAHEEN: And here, it states that
24 you work in the Delaware Basin of Texas, New Mexico
25 outliers, and joint interest. What does that mean,

1 "New Mexico outliers"?

2 MS. MCLEAN: Objection. This
3 seems -- we've already had her been admitted as an
4 expert in this field. I'm not sure this is actually
5 cross-examination on any direct testimony.

6 THE HEARING EXAMINER: Ms. Shaheen?

7 MS. SHAHEEN: Well, she's offered this
8 as an exhibit to support her experience in New Mexico.
9 I think I'm entitled to ask her about that.

10 MS. MCLEAN: She -- Ms. Shaheen did not
11 object to her being qualified as an expert. This is a
12 waste of the division's time at this point.

13 THE HEARING EXAMINER: Ms. -- hold on.

14 MS. SHAHEEN: Yes.

15 THE HEARING EXAMINER: Hold on.

16 I don't -- I really don't want the back
17 and forth. So both counsel are requested to just
18 speak to me instead of speaking to each other.

19 Ms. Shaheen, where are you going with
20 this?

21 MS. SHAHEEN: I'm going to the
22 reliability in -- of Ms. McKee's testimony and
23 her -- the time that she has spent in New Mexico,
24 dealing with New Mexico matters. I haven't
25 objected --

1 THE HEARING EXAMINER: She's
2 been -- okay. Hold on, Ms. Shaheen.

3 MS. SHAHEEN: Uh-huh.

4 THE HEARING EXAMINER: I understand
5 what you're doing. However, she's been admitted as an
6 expert in land matters. Now, land matters in New
7 Mexico, are you saying that those are in some way
8 different than land matters in Texas?

9 MS. SHAHEEN: I am.

10 THE HEARING EXAMINER: You are saying
11 that. How are they different?

12 MS. SHAHEEN: Because in Texas, you
13 don't have compulsory pooling, whereas you do in New
14 Mexico.

15 THE HEARING EXAMINER: Okay. That's a
16 valid point. All right. Ms. Shaheen, you can ask
17 questions specifically on that subject matter, so I
18 overrule the objection. But please -- this is really
19 not key to what we're doing here today.

20 So I'm happy that you want to explore
21 reliability of New Mexico compulsory pooling knowledge
22 by this witness, but please keep it brief and direct.

23 MS. SHAHEEN: Okay.

24 BY MS. SHAHEEN:

25 MS. SHAHEEN: Ms. McKee, you've never

1 testified before in a compulsory pooling proceeding;
2 is that right?

3 MS. MCKEE: That's correct.

4 MS. SHAHEEN: And how long have you
5 been participating, if you will, in some form or
6 fashion with New Mexico compulsory pooling
7 proceedings?

8 MS. MCKEE: Well, since I took over the
9 joint interest advisor role. Within that capacity, it
10 also includes ExxonMobil -- or XTO's portfolio within
11 New Mexico, so about two years.

12 MS. SHAHEEN: Okay. So you're
13 saying -- looking at your resume here, I don't see
14 that you have been working in New Mexico for the past
15 two years. When did you first start working in New
16 Mexico?

17 MS. MCKEE: Whenever -- it would be
18 February -- I believe February of 2024 is when I
19 started working joint interest for all of XTO's
20 unconventional portfolio, which includes New Mexico.
21 In fact, New Mexico is our biggest part of our
22 portfolio for joint interest.

23 We receive the most well proposals.
24 XTO is also compulsory pooled over -- I don't -- I
25 don't even know, over 50 times in a year in New

1 Mexico. I'd have to look at exact numbers, but we
2 are --

3 MS. SHAHEEN: And you yourself
4 personally have been involved with each of those
5 compulsory pooling matters?

6 MS. MCKEE: I work with the team to
7 understand when we get compulsory pooled, whether or
8 not we want to be compulsory pooled, or if we want to
9 work a different commercial agreement with the
10 parties, like we are with -- we have been with
11 Longfellow.

12 MS. SHAHEEN: Turning now to your
13 statement, PDF page 3. In paragraphs 6 and 8 -- in
14 paragraph 6, you state that XTO owns 100 percent of
15 federal lease ending in 56302B, which is included in
16 the unit; correct?

17 MS. MCKEE: That's correct.

18 MS. SHAHEEN: And in paragraph 8, you
19 state that the acreage in the tract in which you have
20 a reassignment -- you state that this acreage was
21 reassigned to XTO on November 1, 2010; correct?

22 MS. MCKEE: I believe that's the date.

23 MS. SHAHEEN: And was that the entirety
24 of the acreage that was -- had been previously term
25 assigned?

1 MS. MCKEE: No. It was a -- a larger
2 term assignment.

3 MS. SHAHEEN: And so all of the acreage
4 was not reassigned to XTO on November 1st; is that
5 right? Of 2010?

6 MS. MCKEE: That's correct, because
7 some of the term assignment acreage had been assigned
8 out to other parties after the original term
9 assignment.

10 MS. SHAHEEN: And you haven't received
11 reassignments from those other parties; have you?

12 MS. MCKEE: No, but we've been pursuing
13 them.

14 MS. SHAHEEN: And so with respect to
15 record title, XTO only has 33 percent of the unit at
16 this time; isn't that right?

17 MS. MCKEE: XTO -- as a -- the record
18 title, yes. However, it's not in dispute that XTO is
19 the owner of that -- that leasehold. None of the
20 parties that owe XTO reassignments are disputing that.

21 MS. SHAHEEN: Okay. But my -- just
22 going back to my previous point, record title shows
23 XTO has 30 percent of this acreage; correct?

24 MS. MCKEE: I believe so, yes.

25 MS. SHAHEEN: And when did XTO acquire

1 its interest in this lease?

2 MS. MCKEE: I believe it was 1953.

3 MS. SHAHEEN: And what development has
4 XTO done in this lease since 1953?

5 MS. MCKEE: I'm not familiar going that
6 far back. I have not researched prior to the Acacia
7 production, and I would not have needed to in my
8 tenure.

9 MS. SHAHEEN: And prior to contacting
10 Mack Energy, did XTO ever propose any plans to develop
11 the Yeso in this lease?

12 MS. MCKEE: We did not need to, because
13 the lease was being held by Acacia, and Longfellow was
14 proposing wells to us.

15 MS. SHAHEEN: And Longfellow proposed
16 these wells in 2025; correct?

17 MS. MCKEE: Correct.

18 MS. SHAHEEN: And XTO has never
19 proposed a development in the Yeso in this lease; is
20 that correct?

21 MS. MCKEE: That is correct. But there
22 also is not other nearby -- until very recently,
23 there's also not other nearby Yeso. This is an
24 emerging clay in this area.

25 MS. SHAHEEN: Turning to your Exhibit

1 A-3, and this is PDF page 10. Is it your testimony
2 today that you've represented all of the
3 communications between the parties in your timeline?

4 MS. MCKEE: Up until -- up until the
5 date that we filed the exhibits, I believe so.

6 MS. SHAHEEN: And bear with me here for
7 a minute, because I'm going to go back and forth
8 to -- between your timeline and Ms. English's
9 timeline.

10 MS. MCKEE: Okay.

11 MS. SHAHEEN: And this is page PDF 74.
12 Here, and if you can see, I'll make it a little
13 bigger. Right here, where it says "XTO Holdings" on
14 the right.

15 MS. MCKEE: I can't see your screen,
16 Ms. Shaheen.

17 MS. SHAHEEN: Oh, sorry.

18 MS. MCKEE: Is it just us, or can
19 others see it?

20 MS. MCLEAN: I can't.

21 MS. MCKEE: Okay.

22 MS. SHAHEEN: I'm sorry. You can or
23 you can't?

24 MS. MCLEAN: Cannot.

25 MS. MCKEE: I cannot.

1 MS. SHAHEEN: Okay. My bad. Here.
2 Hold on.

3 MS. MCKEE: Okay. Now we can see it.

4 BY MS. SHAHEEN:

5 MS. SHAHEEN: Okay. Good. So on the
6 left here, it says "XTO, Exxon," and then on the
7 right, we have a list of communications. Do you see
8 that?

9 MS. MCKEE: Yes, I do.

10 MS. SHAHEEN: And so the first two
11 communications here relate to the well proposal that
12 was sent on August 1st and delivered on August 5th,
13 and then there's an email from XTO to Longfellow on
14 August 19, 2025. Do you see that?

15 MS. MCKEE: Yes, I do.

16 MS. SHAHEEN: Is that reflected on your
17 timeline?

18 MS. MCKEE: I don't recall. No.
19 It -- it does not appear that it is reflected.

20 MS. SHAHEEN: And --

21 MS. MCKEE: Let's see -- no. Okay.

22 MS. SHAHEEN: And why is that?

23 MS. MCKEE: Oversight. Also,
24 the -- our response to a well proposal, like,
25 that -- that is just a common response. But yes, it

1 is an oversight to not include that.

2 MS. SHAHEEN: And you didn't include
3 that in your exhibit of emails; did you?

4 MS. MCKEE: We did not.

5 MS. SHAHEEN: And you didn't include
6 any emails from 2025 in your exhibit with emails,
7 which is Exhibit A-4; isn't that right?

8 MS. MCKEE: I don't think we were
9 required to.

10 MS. SHAHEEN: But did you include that
11 in your Exhibit A-4? Yes or --

12 MS. MCKEE: No, we did not.

13 MS. SHAHEEN: Thank you.

14 So I would like to turn to Rebuttal
15 Exhibit 1, and I understand that Ms. McLean has an
16 objection to that, for some reason.

17 And I have to say that in my haste to
18 satisfy Ms. McLean's request for the rebuttal
19 exhibits, I identified Rebuttal Exhibit 1 as a
20 rebuttal exhibit when it is in fact a cross exhibit.
21 And I would like to offer that as a cross-examination
22 exhibit now.

23 It contains the 2025 emails
24 that -- including those that -- well, including those
25 that Ms. McKee did not include in her timeline.

1 (Longfellow Exhibit 1 was marked for
2 identification.)

3 THE HEARING EXAMINER: Let's discuss
4 the relevance of this exhibit. How is it relevant?

5 MS. SHAHEEN: It's relevant because
6 communications prior to the time the application were
7 filed are what are considered when you're considering
8 the good faith factor, and I can give you the order
9 numbers, if that would be helpful.

10 But it is those communications prior to
11 the time the application that was filed that are
12 pertinent to consideration of good faith in
13 considering -- even though we have no competing
14 proposal here, in considering competing proposals.

15 THE HEARING EXAMINER: Okay. Ms.
16 McLean?

17 MS. MCLEAN: Yes. I don't think it's
18 relevant. XTO is not disputing any of the
19 communications on Ms. English's Exhibit A-5, nor are
20 we disputing Longfellow's good faith prior to the
21 things that started occurring in 2026.

22 I think everyone has listened that
23 we -- the parties were working together in good faith.
24 We withdrew our initial objection to Longfellow's
25 pooling application as a show of good faith that we

1 would be continuing with negotiations, and then in
2 February, everything went south.

3 So I don't think that these pre-2026
4 emails are relevant, and we haven't disputed a single
5 one of them. We did not need to include a 30-page
6 email chain in our exhibits when we're not trying to
7 rebut anything that's said in those.

8 THE HEARING EXAMINER: Ms. Shaheen, I'm
9 going to talk to Mr. Garcia for a moment offline about
10 this to see whether or not we even would consider this
11 information.

12 But, Ms. McLean, didn't you also have a
13 rebuttal exhibit to the same effect?

14 MS. MCLEAN: For --

15 THE HEARING EXAMINER: What is your
16 Rebuttal Exhibit A-8 and B-7? What are they?

17 MS. MCLEAN: The -- Rebuttal Exhibit
18 A-8 is the plat that is for Mack's C-102 that shows
19 where the surface hole location is and that we -- and
20 then the -- B --

21 THE HEARING EXAMINER: Seven?

22 MS. MCLEAN: B-- I think it's B -- is
23 it B-7?

24 THE HEARING EXAMINER: Yes.

25 MS. MCLEAN: That is the Mack

1 development, the map of that.

2 THE HEARING EXAMINER: Okay. Thank
3 you. That's helpful.

4 So, Ms. Shaheen, so that Mr. Garcia and
5 I can have a meaningful conversation and keep
6 it -- what are you trying to show by Rebuttal Exhibit
7 1?

8 MS. SHAHEEN: That there were email
9 communications between XTO and Longfellow that were
10 not included in Ms. McKee's communication timeline.

11 MR. GARCIA: May I ask a question, too,
12 Mr. Gregory?

13 THE HEARING EXAMINER: Oh, of course.
14 Please go ahead, Mr. Garcia.

15 MR. GARCIA: In -- so when we're
16 talking Exhibit 1 offline, there's also 102s attached.
17 Is that part of our discussion, Ms. Shaheen? I guess
18 I'm confused on the 102 versus the emails in Exhibit
19 1 -- Rebuttal Exhibit 1.

20 MS. SHAHEEN: Do you mean the C-102
21 that Ms. McLean offered as Exhibit -- as Rebuttal
22 Exhibit A-8?

23 MR. GARCIA: I'm looking at Longfellow
24 Rebuttal Exhibit 1, PDF page 6. There's a C-102 that
25 comes in with that.

1 MS. SHAHEEN: Oh, those are the C-102s
2 that were attached to one of the emails, and those are
3 already part of the record.

4 MR. GARCIA: Okay. Okay. Sorry about
5 my confusion.

6 THE HEARING EXAMINER: So, Ms. Shaheen,
7 this rebuttal exhibit --

8 And I'm quite aware of the rule of
9 completion so that the fact-finder has a complete
10 scope of the evidence when a party presents part of
11 something and the other party says, "Hey, that's not
12 fair. You're only giving part of it. Here's the rest
13 of it."

14 So let me hear an argument for -- from
15 you on why this exhibit -- in what way does it
16 complete the picture from what XTO has submitted?

17 MS. SHAHEEN: Well, it includes all the
18 2025 emails that were not included by LFE -- excuse
19 me, by XTO.

20 THE HEARING EXAMINER: I understand
21 that, but there has to be a purpose -- I mean, there
22 has to be a purpose to adding, you know, additional.
23 So why is the picture incomplete if we just start with
24 what XTO has submitted?

25 MS. SHAHEEN: Because it doesn't have

1 all of the email communications between the two
2 parties.

3 THE HEARING EXAMINER: Well, what do
4 the emails -- look. You've reviewed these emails. I
5 have not. What do these emails between the parties in
6 2025 say that we -- that is relevant to today's
7 hearing?

8 MS. SHAHEEN: It shows that Longfellow
9 immediately responded to any emails that they received
10 from XTO.

11 THE HEARING EXAMINER: Okay. Ms.
12 McLean, do you have anything to say before I talk to
13 Mr. Garcia?

14 MS. MCLEAN: Yes. I don't think that
15 this exhibit, Rebuttal Exhibit 1, adds any substance
16 to the proceedings. We are not disputing Longfellow's
17 communication timeline. We are not disputing that
18 Longfellow sent us well proposals in August or
19 followed up with C-102s in September.

20 And I don't think this actually adds
21 anything to the record. It's cumulative at this
22 point.

23 THE HEARING EXAMINER: Ms. Shaheen,
24 just a couple of notes about calling this a rebuttal
25 exhibit. What are you rebutting?

1 MS. SHAHEEN: Well, as I -- first of
2 all, we're rebutting the representations of Ms.
3 English -- I'm sorry, Ms. McKee and her chronology of
4 contacts that omit these emails. And secondly, we're
5 rebutting Exhibit A -- I believe it's Exhibit A-6
6 with -- that only includes the 2026 emails.

7 THE HEARING EXAMINER: Okay. Let me
8 ask Ms. McKee a couple of questions.

9 Ms. McKee, why did you leave these
10 communications out from your list of contacts?

11 MS. MCKEE: It -- it was not
12 intentional. It was just I missed that one.

13 THE HEARING EXAMINER: Okay. All
14 right. And why did you leave out the -- these
15 communications in your exhibit?

16 MS. MCKEE: I didn't think they were
17 necessary to provide for this -- for XTO's position in
18 this case.

19 THE HEARING EXAMINER: Okay. Ms.
20 McLean, are you willing to have your witness amend
21 their chronology of contacts and exhibit so that these
22 communications are included?

23 MS. MCLEAN: Certainly. I mean, I
24 don't think that's an issue, since we don't dispute
25 that they occurred.

1 THE HEARING EXAMINER: Okay. Okay.

2 And, Ms. Shaheen, does that satisfy
3 you, if they amend their exhibits and you approve that
4 before it's submitted?

5 MS. SHAHEEN: That's fine. I mean, I
6 just don't see why there's opposition to including
7 communications that are undisputed, but I guess that's
8 beside the point.

9 THE HEARING EXAMINER: Because I
10 question the relevance of these documents.

11 And if the witness is willing to
12 correct, for lack of better word, Ms. McKee -- I'm not
13 saying you did this on purpose.

14 But it is an omission, and if you're
15 willing to correct the omission, then I really don't
16 think that we need to spend time on something like
17 this when it's clear to Mr. Garcia and I that there
18 were communications, that there would -- were good
19 faith negotiations going on in 2025, and that they
20 were omitted.

21 Is that okay, Ms. Shaheen?

22 MS. SHAHEEN: That's fine. Thank you.

23 THE HEARING EXAMINER: Okay. Very
24 good.

25 So let's -- so we're not admitting

1 Rebuttal 1, but we are going to have XTO amend what
2 exhibits, Ms. McLean?

3 MS. MCLEAN: It's Exhibit A-3.

4 THE HEARING EXAMINER: A-3 only?

5 MS. MCLEAN: Yes.

6 THE HEARING EXAMINER: All right.

7 Perfect.

8 MS. MCLEAN: That's our time -- our
9 communication timeline.

10 THE HEARING EXAMINER: All right.

11 Perfect. Thank you, Ms. McLean.

12 Okay. Ms. Shaheen, please continue
13 with your cross-examination.

14 MS. SHAHEEN: Thank you.

15 BY MS. SHAHEEN:

16 MS. SHAHEEN: Turning now to Exhibit
17 A-6, and I will share my screen again. Do you recall
18 this email of February 9th?

19 MS. MCKEE: I do.

20 MS. SHAHEEN: And turning to PDF page
21 18, I'll direct you to the third what I call white
22 bullet here. One, two, three. "At no time." Do you
23 see that?

24 MS. MCKEE: I do.

25 MS. SHAHEEN: Could you read that into

1 the record, please?

2 MS. MCKEE: "At no time did Longfellow
3 state" -- so this is Rebecca's response; correct?

4 Yeah, this is --

5 MS. SHAHEEN: This is -- yes.

6 MS. MCKEE: Yeah. "At no time did
7 Longfellow state that it would decline to pursue
8 development of the Van Halen with ExxonMobil as a
9 working interest partner, nor did we state that
10 development would occur only if ExxonMobil agreed to a
11 term assignment.

12 "We did, however, make it clear that if
13 ExxonMobil is not prepared to proceed on the terms we
14 proposed, Longfellow would need to revisit the matter
15 internally and determine the approach that best aligns
16 with Longfellow's overall interests."

17 MS. SHAHEEN: Do you dispute this
18 statement?

19 MS. MCKEE: I dispute that Longfellow
20 said it would decline to pursue development of wells
21 in Van Halen with ExxonMobil as a working interest
22 partner, because we were discussing a term assignment,
23 and if we did a term assignment, then XTO would no
24 longer be a working interest partner.

25 And when we questioned -- and

1 the -- and to clarify, the term assignment at that
2 time also included a term assignment for another
3 portion of acreage, and when we asked about XTO's
4 ability to participate under the order, that was not
5 given as an option at the February 3rd meeting.

6 MS. SHAHEEN: Is it your understanding
7 based on the conversation that occurred on February
8 4th that Longfellow was proposing a new deal structure
9 that would allow XTO to choose the manner in which
10 this could be resolved so Longfellow could drill the
11 horizontal wells?

12 MS. MCKEE: Sorry. Ms. Shaheen, are
13 you referring to the February 3rd meeting or this
14 email?

15 MS. SHAHEEN: I'm referring to -- oh.
16 I'm referring to the in-person meeting that I believe
17 was on February 4th.

18 MS. MCKEE: Oh, it was -- it was the
19 3rd, but that's -- yeah.

20 MS. SHAHEEN: Oh, the -- I'm sorry.
21 Was it on the 3rd, the in-person meeting?

22 MS. MCKEE: It's okay. Yes, ma'am.

23 MS. SHAHEEN: I'll rephrase the
24 question accordingly.

25 MS. MCKEE: Oh, it's -- okay. It's

1 okay. I understand now. So you were asking on
2 February 3rd, did XTO understand that there
3 were -- was a new proposal given by Longfellow for the
4 development of Van Halen? Or please feel free to
5 rephrase if I --

6 MS. SHAHEEN: Yes --

7 MS. MCKEE: Okay.

8 MS. SHAHEEN: Here. I'll state it
9 again.

10 Is it your understanding based on the
11 conversation that occurred between you and Rebecca on
12 February 3rd -- or -- that Longfellow was proposing a
13 new deal structure that would allow XTO to choose the
14 manner in which this could be resolved so Longfellow
15 could drill the horizontal wells?

16 MS. MCKEE: During the February 3rd
17 meeting, XTO was presented with the proposal that we
18 had to enter into a term assignment, do a 50/50 deal
19 on the remaining acreage in -- in order for Longfellow
20 to proceed with attempting to drill the horizontal
21 well.

22 Otherwise, it would drill a vertical
23 well on its own acreage.

24 MS. SHAHEEN: Let's back up on that
25 same timeline. I'm sorry. That same email.

1 Actually, let's go back to your timeline, Exhibit A-3,
2 and I will share that again. Here, you reference
3 February 6 of 2026?

4 MS. MCKEE: Yes.

5 MS. SHAHEEN: And here, you state that
6 Longfellow emailed and offered to participate with a
7 JOA; correct?

8 MS. MCKEE: Correct.

9 MS. SHAHEEN: And then with respect to
10 February 16, 2026, you note that you discussed with
11 Rebecca a trade proposal; is that correct?

12 MS. MCKEE: I did. Both of those were
13 after Longfellow had already told us that they did not
14 intend on executing on the horizontal well.

15 MS. SHAHEEN: Turning to A-6, and this
16 is Ms. English's A-6.

17 MS. MCLEAN: So Longfellow's Exhibit
18 A-6, Ms. Shaheen?

19 MS. SHAHEEN: Oh, sorry. I'm in the
20 wrong one. Yes, Longfellow's Exhibit A-6. Oh, sorry.
21 I've got the wrong PDF page number here, and I may
22 have the wrong exhibit as well. Let's -- hold on one
23 second. A-5. I'm looking for A-5. Oh, I'm -- my
24 apologies. I'm in the wrong exhibit.

25 I want to be here. Okay. Here we go.

1 MS. MCLEAN: Are we back to Exxon's
2 Exhibit A-6?

3 MS. SHAHEEN: Yes. Exxon's Exhibit
4 A-6, PDF 17, the third to the last paragraph.

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: Here it says "Longfellow
7 proposed in the February 3rd meeting that XTO assign
8 Longfellow either 100 percent of their interest or a
9 partial percent of their interest in the south half of
10 Section 33," which is the acreage that is subject to
11 the application here; correct?

12 MS. MCKEE: Correct.

13 MS. SHAHEEN: And then in the third
14 line here, it says "And Exxon and Mobil -- ExxonMobil
15 and Longfellow would go 50/50 on the remaining 640
16 acres"; is that right?

17 MS. MCKEE: That's correct.

18 MS. SHAHEEN: And is that what you
19 would -- would you consider that to be a joint venture
20 proposal?

21 MS. MCKEE: I -- I don't know -- I -- I
22 suppose it's that -- that was not the entirety of
23 Longfellow's proposal to Exxon -- to XTO in that
24 meeting. That was only a portion of what XTO -- or
25 what Longfellow proposed to XTO. Additionally, it

1 included acreage that wasn't part of Van Halen CD.

2 MS. SHAHEEN: And if I understand
3 correctly, you do -- you don't dispute that Longfellow
4 has offered you several different options; right?
5 They offered a term assignment; is that correct?

6 MS. MCKEE: They did initially offer a
7 term assignment.

8 MS. SHAHEEN: And they offered an
9 outright assignment; correct?

10 MS. MCKEE: They did offer an outright
11 assignment, and --

12 MS. SHAHEEN: And they --

13 MS. MCKEE: And XTO is not disputing
14 that that is what happened up until February 3rd.

15 MS. SHAHEEN: And they also proposed a
16 joint venture agreement; correct?

17 MS. MCKEE: You're referring to the
18 50/50 split on the remaining acreage?

19 MS. SHAHEEN: Yes.

20 MS. MCKEE: They did offer a 50/50
21 split on the remaining acreage.

22 MS. SHAHEEN: And they offered an
23 option to participate under JOA; correct?

24 MS. MCKEE: After XTO filed its
25 opposition to the compulsory pooling, yes.

1 MS. SHAHEEN: And when did XTO request
2 a copy of the JOA?

3 MS. MCKEE: I -- I don't know if XTO
4 requested a copy of the JOA at the February
5 3rd -- I'm -- I'm not sure.

6 MS. SHAHEEN: And they've also
7 offered -- they proposed a trade offer; isn't that
8 right?

9 MS. MCKEE: Yes.

10 MS. SHAHEEN: And so would --

11 MS. MCKEE: And they did -- after the
12 February 3rd meeting and after XTO opposed
13 Longfellow's development, they did offer it.

14 MS. SHAHEEN: So Longfellow has
15 proposed five different mechanisms for resolving this
16 dispute; isn't that right?

17 MS. MCKEE: They have, but none of
18 which have -- provide a guarantee for XTO that these
19 wells are actually going to be executed and that XTO's
20 well will -- or acreage will be maintained.

21 MS. SHAHEEN: Based on all of these
22 various proposals that Longfellow made to XTO, why
23 would XTO believe that Longfellow is not going to
24 drill the proposed horizontal wells in light of the
25 time, the effort, and the money that would take to

1 propose and execute any of these proposed options?

2 MS. MCKEE: Because --

3 MS. SHAHEEN: Why would you believe
4 that LFE is not going to drill those wells?

5 MS. MCLEAN: Objection, form. That
6 was, like, five questions in one.

7 MS. SHAHEEN: I'm happy to ask --

8 THE HEARING EXAMINER: Ms. Shaheen, I
9 know what you're -- hold on. I'm going to sustain the
10 objection because I find these questions are really
11 not helpful to the division. We have the emails back
12 and forth. We have the testimony of the parties.

13 To go further than that into this
14 factor isn't going to be helpful to either party, so
15 I'm going to ask you to move on to a new subject
16 matter instead of this. Thank you.

17 MS. SHAHEEN: Okay. Let's move on to
18 Rebuttal Exhibit A-8.

19 BY MS. SHAHEEN:

20 MS. SHAHEEN: Then if I understood your
21 testimony earlier, Ms. McKee, you represented that
22 this is an application for a permit to drill; is that
23 right?

24 MS. MCKEE: It's a part of the
25 application, yes.

1 MS. SHAHEEN: And has there been an
2 application for permit to drill submitted with this
3 CO2 [sic] attached?

4 MS. MCKEE: This was an amendment to an
5 original APD.

6 MS. SHAHEEN: And the original
7 APD -- and just for the record, it's Rebuttal Exhibit
8 A-8; correct?

9 MS. MCKEE: Correct. I -- I believe
10 so.

11 MS. SHAHEEN: And this is a C-102 that
12 was completed by Mack Energy; is that correct?

13 MS. MCKEE: Yes.

14 MS. SHAHEEN: Okay. And the well name
15 is the Peyote P Fed Com 5H; is that right?

16 MS. MCKEE: That's correct.

17 MS. SHAHEEN: Okay. So there is an
18 existing APD; correct?

19 MS. MCKEE: There is an existing APD,
20 yes.

21 MS. SHAHEEN: That has been approved?

22 MS. MCKEE: Yes.

23 MS. SHAHEEN: And that first APD has
24 not been canceled; right?

25 MS. MCKEE: Correct.

1 MS. SHAHEEN: And that first APD does
2 not include XTO's acreage; is that right?

3 MS. MCKEE: That's correct. That's why
4 it was amended, to include XTO's acreage.

5 MS. SHAHEEN: Do you have a written
6 executed agreement with Mack Energy?

7 MS. MCKEE: We do not at this time.

8 MS. SHAHEEN: So wouldn't you agree the
9 lack of an agreement is an execution risk to XTO's
10 proposal? Isn't that right?

11 MS. MCKEE: XTO and Mack have been
12 working together since February 3rd to execute on
13 this, and Mack -- I think Mack's actions by filing
14 this permit show that they're intending on moving
15 forward with completing and XTO's lease.

16 MS. SHAHEEN: Do you know whether Mack
17 has amended its development plan in Section 32 to
18 conform to this C-102?

19 MS. MCKEE: I do not know.

20 MS. SHAHEEN: Turning to PDF 3, here
21 taking a look at the plat, can you tell us where the
22 first take point is located?

23 MS. MCKEE: It's located on XTO's
24 lease.

25 MS. SHAHEEN: Where on XTO's lease?

1 MS. MCKEE: How would you like for me
2 to refer to that?

3 MS. SHAHEEN: By footages from the west
4 boundary of XTO's lease.

5 MS. MCKEE: Okay. Sorry. I'm trying
6 to see --

7 MS. SHAHEEN: Do I need --

8 MS. MCLEAN: -- go to the --

9 MS. SHAHEEN: Oh, okay. Good idea.

10 MS. MCLEAN: For the first take point,
11 you're asking; right, Ms. Shaheen?

12 MS. SHAHEEN: That's right. Here we
13 go.

14 MS. MCKEE: Oh, okay. Yes. It looks
15 like 330 from the south line, 158 from the west.

16 BY MS. SHAHEEN:

17 MS. SHAHEEN: So is it your
18 understanding that Mack Energy intends to penetrate
19 the tract by only 158 feet -- I should say intends to
20 perforate the tract only to 158 feet from the west
21 line?

22 MS. MCKEE: I believe that is what it
23 said. And a penetration and -- is all that is
24 required to maintain the lease.

25 MS. SHAHEEN: And have XTO and Mack

1 Energy agreed that this is the plan of action going
2 forward for certain?

3 MS. MCKEE: We have agreed that this is
4 our plan of action, and we have taken steps to -- to
5 execute the plan.

6 MS. SHAHEEN: And has Mack Energy
7 confirmed that it will execute this plan?

8 MS. MCKEE: It's shown by filing a
9 permit, and they have communicated to us that they can
10 start building location within ten days.

11 MS. SHAHEEN: And what --

12 MS. MCKEE: And they have reached out
13 to contract a rig.

14 MS. SHAHEEN: And what do you have to
15 assure you that Mack will follow through with this
16 plan of action?

17 MS. MCKEE: We have discussions between
18 Mack and XTO, and -- and Mack is not -- I -- they're
19 not saying that they will not execute on this, whereas
20 Longfellow has expressed concern several times, both
21 verbally and in writing, that they -- they may not
22 execute on the horizontal well.

23 MS. SHAHEEN: And isn't that option to
24 Longfellow result of the delay that's caused by XTO's
25 contest of this application?

1 MS. MCKEE: No. Longfellow has been
2 able to proceed.

3 MS. SHAHEEN: Longfellow can't drill
4 because XTO is contesting this application; correct?

5 MS. MCKEE: That is correct.

6 MS. SHAHEEN: So XTO has called
7 the -- caused the delay that's resulting in concern
8 about the lease expirations; correct?

9 MS. MCKEE: I would argue that
10 Longfellow caused the delay by what it expressed to us
11 in the February 3rd meeting, which is that they did
12 not intend on drilling the horizontal well and instead
13 would drill a vertical.

14 MS. SHAHEEN: So going back to Mack
15 Energy, has Mack Energy provided you with any
16 assurances that they will be following through this
17 plan?

18 MS. MCKEE: I'll just repeat what I
19 said before. By amending their APD, they show that
20 they're intending on following through.

21 MS. SHAHEEN: Can you walk me through
22 your conversations with Mack Energy?

23 MS. MCLEAN: Objection, relevance, and
24 I think it has -- could potentially, you know, involve
25 some confidential and proprietary information.

1 MS. SHAHEEN: Ms. --

2 THE HEARING EXAMINER: Ms. Shaheen --

3 MS. SHAHEEN: I'm sorry.

4 THE HEARING EXAMINER: Ms. Shaheen,
5 where are you going with -- what do you want besides
6 just -- I mean, I'm not sure what "Walk me through"
7 means, but what specific information are you trying to
8 find out?

9 MS. SHAHEEN: I'm trying to find out
10 what assurances they have that Mack Energy will follow
11 through with this plan that they've offered as an
12 alternative to Longfellow's proposal.

13 THE HEARING EXAMINER: Okay. And have
14 you asked that question yet in that form?

15 MS. SHAHEEN: Yes, I have asked that
16 question. I just thought it might be helpful to have
17 some detail about what conversations -- what
18 have -- what conversations have taken place and what
19 was actually said with Mack Energy.

20 THE HEARING EXAMINER: If it was more
21 critical to the decision the division needs to make, I
22 would say I'd overrule it. But it's not, and you've
23 asked the question. And we've heard the answer. I
24 know Mr. Garcia has a question. How many more
25 cross-examination questions do you have?

1 MS. SHAHEEN: I'm going to say ten
2 minutes.

3 THE HEARING EXAMINER: Okay. Go ahead.

4 MS. SHAHEEN: All right.

5 BY MS. SHAHEEN:

6 MS. SHAHEEN: Do you know if Mack
7 Energy has initiated the process of getting a fed
8 state comm agreement?

9 MS. MCKEE: I believe that they have.

10 MS. SHAHEEN: And what do you base that
11 belief on?

12 MS. MCKEE: Mack telling us that they
13 reached out to the State.

14 MS. SHAHEEN: Have you -- to the State
15 or to the -- to BLM? Well, I guess that's my next
16 question. Have -- has --

17 MS. MCKEE: Yeah. They have --

18 MS. SHAHEEN: Has Mack -- I'm sorry.
19 Has Mack Energy contacted the BLM about this proposal?

20 MS. MCKEE: I'm not -- I'm not sure on
21 that one.

22 MS. SHAHEEN: Has XTO contacted the BLM
23 about this proposal?

24 MS. MCKEE: No, we have not.

25 MS. SHAHEEN: Do you expect any issue

1 obtaining a comm agreement where the acreage will only
2 be perforated by 158 feet out of 1,320 feet?

3 MS. MCKEE: I'm not sure, but I don't
4 think it will be problematic.

5 MS. SHAHEEN: Have you ever received a
6 comm agreement with BLM where the federal tract is
7 only penetrated by 158 feet?

8 MS. MCKEE: That's not -- I don't know
9 how -- I'm not sure.

10 MS. SHAHEEN: Do you know whether
11 there's a comm agreement in place to include the
12 southwest quarter of the southwest quarter of Section
13 33?

14 MS. MCKEE: Not currently.

15 MS. SHAHEEN: How much XTO acreage is
16 being dedicated to the Mack Energy unit?

17 MS. MCKEE: That would be up for Mack
18 Energy to determine.

19 MS. SHAHEEN: So you don't know how
20 much of XTO's acreage in that southwest quarter of the
21 southwest quarter will be dedicated to the unit?

22 MS. MCKEE: Not at -- that is something
23 to be determined.

24 MS. SHAHEEN: Why is only one well
25 penetrating this unit?

1 MS. MCKEE: This is the initial plan.
2 It's not the full plan.

3 MS. SHAHEEN: How many wells has Mack
4 permitted?

5 MS. MCKEE: With a penetration point in
6 XTO's lease, one. It was the amendment that we
7 viewed.

8 MS. SHAHEEN: Why only one?

9 MS. MCKEE: That's all that's necessary
10 at this time.

11 MS. SHAHEEN: How will production be
12 calculated under the communitization agreement?

13 MS. MCLEAN: Objection, asked and
14 answered. She isn't aware of a -- she's already
15 testified she's not aware of an existing comm
16 agreement.

17 MS. SHAHEEN: Would you agree that --

18 THE HEARING EXAMINER: Ms. Shaheen, Ms.
19 Shaheen, you do have to wait for me to make some sort
20 of a --

21 MS. SHAHEEN: Oh, I'm sorry.

22 THE HEARING EXAMINER: That's okay.
23 You do have to wait so I can make some sort of ruling.
24 So it sounds like you concede that you've already
25 asked that question, so I'll sustain the objection.

1 Thank you.

2 BY MS. SHAHEEN:

3 MS. SHAHEEN: Do you agree that there
4 will be a productive lateral of this proposed well of
5 5,338 feet?

6 MS. MCKEE: I'm trying to look for the
7 numbers. Yes, about that.

8 MS. SHAHEEN: And do you agree that 158
9 feet of the productive lateral will be on federal
10 minerals?

11 MS. MCKEE: It appears so, yes.

12 MS. SHAHEEN: And with those numbers,
13 would you agree that 3 percent of the productive
14 lateral is located on federal land in Section 33?

15 MS. MCKEE: Approximately. I -- I
16 cannot do that math in my head.

17 MS. SHAHEEN: Okay. And then
18 that -- and would you agree that ordinarily, including
19 that tract -- well, let me ask you this. How large is
20 the tract of land on XTO's lease that would be
21 included in the proposed Mack Energy well?

22 MS. MCKEE: Well, the entirety of the
23 tract is 80 acres, but it depends on the spacing for
24 the well.

25 MS. SHAHEEN: And so would you agree

1 that one-fifth of the production would be allocated to
2 XTO in that federal lease?

3 MS. MCKEE: I'm not sure of the
4 numbers.

5 MS. SHAHEEN: If you have five 40-acre
6 tracts?

7 MS. MCKEE: Oh, I'm sorry. Yes. I see
8 what --

9 MS. SHAHEEN: How many acres --

10 MS. MCKEE: I see what you're saying
11 now, Ms. Shaheen. Yeah.

12 MS. SHAHEEN: If you have five 40-acre
13 tracts; right? That's 200 acres; right?

14 MS. MCKEE: Correct.

15 MS. SHAHEEN: And it would be allocated
16 to each tract accordingly?

17 MS. MCLEAN: Objection, form, asked and
18 answered.

19 THE HEARING EXAMINER: So, Ms. Shaheen,
20 are you trying to get the witness to agree with your
21 math?

22 MS. SHAHEEN: Yes.

23 THE HEARING EXAMINER: Okay. That's
24 what I thought you were doing. As long as, you know,
25 we can do math here, too -- Mr. Garcia is excellent at

1 math. He's an engineer. I don't know that we need to
2 spend time getting this witness to agree with your
3 percentages and proportions. So can we move on?

4 MS. SHAHEEN: Yes. I just would like
5 to get to the point. I mean, I'm setting up the final
6 question.

7 THE HEARING EXAMINER: Well, go ahead,
8 please.

9 MS. SHAHEEN: And -- okay.

10 BY MS. SHAHEEN:

11 MS. SHAHEEN: So if only 158 feet is
12 going to be perforated in one of these 40-acre tracts,
13 yet production will be allocated based on each -- the
14 entirety of each tract, the State will be producing 97
15 percent of the production lateral but will only be
16 attributed 80 percent under the allocation for
17 royalties; isn't that correct?

18 MS. MCLEAN: Objection, foundation. I
19 don't know -- there's been no introduction, and
20 there's actually been testimony to the contrary that
21 there is no agreement in place on how production will
22 be allocated.

23 THE HEARING EXAMINER: Ms. Shaheen?

24 MS. SHAHEEN: Well, perhaps I should --

25 MS. MCLEAN: -- hypothetical.

1 MS. SHAHEEN: Well, I would disagree,
2 because there's -- 70-2-17 expressly states how
3 allocation will take place based on surface acreage.

4 THE HEARING EXAMINER: Oh, I'm not
5 doubting your reading of the statute, but the
6 objection is that there's -- this is not proper
7 cross-examination, because this is not part of her
8 direct testimony.

9 MS. SHAHEEN: Well, let's turn back to
10 Exhibit A-8, if we can, and I'll reframe the question.

11 THE HEARING EXAMINER: Go ahead.

12 BY MS. SHAHEEN:

13 MS. SHAHEEN: So turning here, the
14 C-102 reflects that it's dedicated, I believe -- and
15 I'm looking for it now -- to 200 acres. Here it is,
16 right here. Do you see that, Ms. McKee?

17 MS. MCKEE: I do.

18 MS. SHAHEEN: And in your experience,
19 how would production be allocated over 200 acres?

20 MS. MCKEE: On a surface acre basis.

21 MS. SHAHEEN: Okay. And if XTO's tract
22 is 40 acres, then it would be allocated one-fifth of
23 the production; correct?

24 MS. MCKEE: That math is correct.

25 MS. SHAHEEN: Thank you. And that

1 would be ordinarily allocated 20 percent to that
2 tract, even though the tract is only being penetrated
3 by 150 acre feet; is that correct?

4 MS. MCKEE: Yes, I believe so.

5 MS. SHAHEEN: Isn't that wasteful with
6 respect to the State?

7 MS. MCKEE: Well, if our options are to
8 not have a well at all penetrate our lease or to have
9 the -- the plan as presented by Mack so that there is
10 a well penetrating the lease, I think it's in the best
11 interest of both the lessor and lessee to have a well
12 penetrating its tract to maintain the lease.

13 MS. SHAHEEN: Isn't the other option to
14 allow LFE to drill the wells that it's proposed in
15 this application?

16 MS. MCKEE: XTO does not have
17 confidence that LFE is going to move forward with
18 drilling the horizontal well.

19 MS. SHAHEEN: Why hasn't XTO proposed
20 2-mile wells to develop their lease to include Section
21 34 as recommended by Mr. Brown?

22 MS. MCKEE: Because it doesn't have to.
23 It can work with other parties.

24 MS. SHAHEEN: But no other party has
25 proposed 2-mile wells to develop your lease to include

1 Section 34 as recommended by Mr. Brown; right?

2 MS. MCKEE: They don't -- if they don't
3 own the leasehold, a continuous leasehold, then they
4 don't have the control to do that.

5 MS. SHAHEEN: I don't think that
6 answered my question. No other party has proposed
7 2-mile wells to develop your lease to include Section
8 34 as recommended by Mr. Brown; correct?

9 MS. MCKEE: Correct.

10 MS. SHAHEEN: The only party who has
11 proposed wells to develop your lease is Longfellow;
12 isn't that correct?

13 MS. MCKEE: Yes. Also not 2-mile
14 wells.

15 MS. SHAHEEN: Mr. Examiner, I may be
16 done here, but I would like to confer with my client,
17 if that's a possibility.

18 THE HEARING EXAMINER: I -- you've had
19 quite some time to cross-examine this client. I'll
20 give you one minute to confer with your client. It's
21 9:29 now.

22 MS. SHAHEEN: Thank you.

23 No other questions. Thank you, Ms.
24 McKee.

25 THE HEARING EXAMINER: All right.

1 Thank you, Ms. Shaheen.

2 And before we go to Mr. Garcia, I want
3 to talk about timing for a minute here. I have a
4 doctor's appointment today, and I've been waiting for
5 it for months. As you know, in New Mexico, we don't
6 have a lot of choice here on doctors, and that's
7 around noontime.

8 So what I'd like to do is I'd like to
9 break at 10:30 for three hours and come back on the
10 record at 1:30. Does anyone have a problem with that?

11 MS. MCLEAN: I also have a doctor's
12 appointment at two.

13 THE HEARING EXAMINER: What time is
14 yours, Ms. McLean?

15 MS. MCLEAN: What?

16 THE HEARING EXAMINER: What time is
17 yours?

18 MS. MCLEAN: It's at 2 p.m.

19 THE HEARING EXAMINER: Oh.

20 MS. MCLEAN: But, I mean, I want -- we
21 need to get this done. I will just wait another
22 however long so that we can get this finished today,
23 because I don't have -- I mean, I don't have that much
24 time that I need with Mr. Brown.

25 THE HEARING EXAMINER: Okay.

1 MS. MCLEAN: About my same time as I
2 had with Ms. McKee.

3 THE HEARING EXAMINER: Okay.

4 MS. MCLEAN: But I don't know how long
5 Ms. Shaheen will take.

6 THE HEARING EXAMINER: Sounds good.

7 MS. SHAHEEN: We don't have that --

8 THE HEARING EXAMINER: Ms. Shaheen, do
9 you -- go ahead.

10 MS. SHAHEEN: I'm sorry. We don't have
11 that much.

12 THE HEARING EXAMINER: All right.

13 MS. SHAHEEN: I think we can be done by
14 10:30.

15 THE HEARING EXAMINER: And maybe we
16 will be, and that would be -- that'd be wonderful.

17 All right. Mr. Garcia,
18 cross-examination for Mr. -- Ms. McKee?

19 MR. GARCIA: I have a few questions.

20 CROSS-EXAMINATION

21 BY MR. GARCIA:

22 MR. GARCIA: Good morning, Ms. McKee.

23 MS. MCKEE: Good morning.

24 MR. GARCIA: Some of these questions
25 are very similar to what I asked yesterday. Has XTO

1 had any discussion with BLM about handling the Acacia
2 wells or facilities on the lease?

3 MS. MCKEE: We have -- to my knowledge,
4 no, although I would not be privy to all of those
5 conversations.

6 MR. GARCIA: Similar question again.
7 Has XTO asked BLM for an extension of the lease?
8 Longfellow indicated that's not an option, but I guess
9 XTO's opinion?

10 MS. MCKEE: Yeah, we -- we have not
11 asked BLM. We -- we have been talking with
12 Longfellow, and, you know -- and they indicated kind
13 of what -- what their response has been -- has been,
14 and -- and we are aligned, you know, that both
15 Longfellow and XTO, time is of the essence for us.

16 And so, you know, we -- we're
17 cooperative and understand that challenge.

18 MR. GARCIA: Okay. And then I guess
19 similar question that I asked yesterday. Has XTO
20 asked for a leave in the bankruptcy court?

21 MS. MCKEE: Have we asked for a leave?
22 So no, and I believe it's an exhibit that
23 there -- we're allowed to access the property as
24 directed for, like, safety or remediation reasons.
25 But that's all.

1 MR. GARCIA: Okay -- Ms. Shaheen kind
2 of stole one of my questions, but I'm going to re-ask.
3 She asked you about why XTO hasn't proposed a
4 horizontal well, and I do want to screenshare. I'll
5 screenshare.

6 MS. MCKEE: Okay.

7 MR. GARCIA: I heard your answer was
8 essentially because you guys can work with other
9 parties. I guess my question is since those
10 discussions are now breaking down, has there been any
11 talk to now propose it, whether a 1-mile or 2-mile
12 well?

13 I mean, you guys own acreage to the
14 right, as I think Mr. Brown shows in his exhibits or
15 talks about along the lateral. Has there ever been
16 any discussion since that?

17 MS. MCKEE: So we have -- we have
18 been -- not for XTO to drill, but for Mack, because
19 Mack already has been working with those, you know,
20 surface locations that are located on our lease.

21 They already had the plans for
22 the -- the wells in Section 32 and that -- and now
23 would also penetrate Section 33. So we've talked
24 about them for future wells. But, you know, because
25 of this -- compulsory pooling discussions and with

1 Longfellow, we do not have a -- plans right --

2 Well, we are making plans, but we don't
3 have anything in place for development.

4 MR. GARCIA: Okay. And I know I'm
5 sharing Longfellow's exhibit. It looked very
6 identical to yours. They just have the lease numbers
7 is why I was using this one.

8 MS. MCKEE: Yes.

9 MR. GARCIA: I guess my question is XTO
10 has the same lease number on all of their blue tracts
11 in this exhibit. Is there any other discussion of a
12 vertical well on any of the other blue tracts
13 highlighted in this exhibit?

14 MS. MCKEE: No, not at this time,
15 because we do think we have a viable option with Mack
16 with, you know, what we've proposed, and that is our
17 best option. We do, you know, prefer to drill a
18 horizontal well, rather than a vertical well.

19 The economics support that, and so
20 because we view the viable option with Mack, they
21 already have the surface location on our lease,
22 and -- and we've been progressing that, we have not
23 explored a vertical well on another portion of the
24 lease.

25 MR. GARCIA: Okay. Then I think I have

1 one more question, which let me see if I can swap
2 screens. This is not your guys' exhibit. This is
3 just public data from OCD's website. This is the Mack
4 Number 5H that we've been discussing.

5 MS. MCKEE: Yes.

6 MR. GARCIA: I'm curious on timelines,
7 because I got a little confused. Mack just submitted
8 this in December -- I think December 11th. Their
9 change of plans is actually dropping your acreage, it
10 looks like. And so do you -- are you aware of that, I
11 guess?

12 Because they're going from 200 acres to
13 160 acres, and BLM has approved that. And the 102
14 they turned in moves the first take point outside of
15 your acreage back into theirs. So I guess I'm curious
16 on what this is.

17 MS. MCKEE: I think that -- but those
18 predate the amended APD; right?

19 MR. GARCIA: Okay. This is the most
20 recent information the division has. We have no other
21 information post this is, I guess, where my confusion
22 came into play at.

23 MS. MCKEE: Oh. I -- I'm -- I'm sorry.
24 I'm confused. I guess I'm just -- I'm looking at the
25 date of September 25th, and then we have the --

1 MR. GARCIA: Yeah. I mean, that's the
2 102 they turned in to change their acreage from 200
3 acres to 160. It's a previously imaged 102, but
4 that's what they just got approved by BLM on November
5 10th this year.

6 Day -- was submitted was November to
7 BLM, and they are requesting to go from 200 acres to
8 160 acres, which essentially dropped the land.

9 MS. MCKEE: That -- I don't think -- I
10 think the ones -- I don't think the 160 was -- the
11 change was referring to the XTO lease. It may have
12 been referring to other acreage within.

13 MR. GARCIA: I mean, the 102 you showed
14 had the perforations over here.

15 MS. MCKEE: I'd have to check. Sorry.
16 I'm -- I'm sorry. Go ahead.

17 MR. GARCIA: The 102 you guys showed in
18 Exhibit 8-A, I believe it was, has the first take
19 point over here, which would be the 40 acres. We
20 talked about math earlier on.

21 MS. MCKEE: Yes.

22 MR. GARCIA: So the division would see
23 this 160 acres as these four blocks. Therefore, XTO's
24 acreage in Section 33 would not be contributed to this
25 well. So I guess I'm just confused on is the 102 you

1 showed newer than December?

2 MS. MCKEE: It -- it is, yes. It was,
3 I believe, February 9th.

4 MR. GARCIA: Okay. So it's brand,
5 brand new?

6 MS. MCKEE: Yes, yes. It is brand,
7 brand new, because we reached out to Mack after -- I
8 believe the day of our conversation with Longfellow.
9 And then that's what caused Mack to amend their APD to
10 include --

11 MR. GARCIA: Okay.

12 MS. MCKEE: Yeah. Sorry if I was
13 confused on the --

14 MR. GARCIA: No.

15 MS. MCKEE: Yes, it is brand, brand
16 new.

17 MR. GARCIA: Okay. So the -- moving
18 the first take point 150-ish feet into your guys's
19 acreage, that's February 9th update?

20 MS. MCKEE: Correct. Yes.

21 MR. GARCIA: Okay. And then I guess it
22 might not be related to hearings. But, you know,
23 please coordinate with Mack on getting those submitted
24 to BLM and OCD.

25 MS. MCKEE: Oh, yes. Yes, we can --

1 MR. GARCIA: I believe that's all my
2 questions.

3 THE HEARING EXAMINER: All right.
4 Thank you.

5 MS. McLean, any redirect?

6 MS. MCLEAN: Yes. I'd just like to
7 clarify.

8 REDIRECT EXAMINATION

9 BY MS. MCLEAN:

10 MS. MCLEAN: The C-102 that's dated
11 February 9, 2026, that has been submitted to BLM as
12 part of the amended APD, Ms. McKee?

13 MS. MCKEE: It has.

14 MS. MCLEAN: And I think that you
15 answered -- Mr. Garcia actually asked some of my
16 questions to clarify. And you would prefer to drill
17 horizontal wells; correct?

18 MS. MCKEE: Correct.

19 MS. MCLEAN: And so why go down this
20 path with Mack?

21 MS. MCKEE: Because they already have
22 the surface location on our lease. They're willing to
23 move forward with drilling the horizontal well. It's
24 in their interest to, you know, lengthen their well
25 bore. They're -- it's a -- it's a viable option for

Page 73

1 XTO to maintain its leasehold via a horizontal well.

2 MS. MCLEAN: And XTO maintaining its
3 leasehold, is that the most important thing to XTO at
4 this point?

5 MS. MCKEE: It is.

6 MS. MCLEAN: Okay. No more questions.

7 THE HEARING EXAMINER: All right, Ms.
8 Shaheen. Any re-cross on that redirect?

9 MS. SHAHEEN: No, thank you.

10 THE HEARING EXAMINER: All right. Mr.
11 Garcia?

12 MR. GARCIA: None for me.

13 THE HEARING EXAMINER: All right.

14 Sounds good.

15 Let's take a three-minute break before
16 you call Mr. Brown.

17 MS. MCLEAN: Okay. Will do.

18 THE HEARING EXAMINER: We'll be back on
19 the record in three minutes. Thank you.

20 (Off the record.)

21 THE HEARING EXAMINER: All right.

22 We're back on the record. It is 9:43 a.m., and Ms.
23 McLean is going to call her second witness, Mr. Paul
24 Brown.

25 Mr. Brown, I remind you --

1 MS. MCLEAN: Yes. Yes.

2 THE HEARING EXAMINER: Mr. Brown, I
3 remind you that you're under oath, and please speak
4 loud enough so that the court reporter can capture
5 what you say.

6 MS. MCLEAN: Mr. Brown isn't back quite
7 yet.

8 THE HEARING EXAMINER: We can see that.
9 Thank you.

10 MS. MCLEAN: Sorry. Here he comes.

11 THE HEARING EXAMINER: Thank you.

12 MR. BROWN: I apologize.

13 THE HEARING EXAMINER: Good morning.
14 Good morning, Mr. Brown.

15 MR. BROWN: Yes.

16 THE HEARING EXAMINER: I remind you
17 that you're under oath and to please speak loudly so
18 we can hear you.

19 MR. BROWN: Yes, sir.

20 THE HEARING EXAMINER: Go right ahead,
21 Ms. McLean.

22 MS. MCLEAN: Thank you.

23 DIRECT EXAMINATION

24 BY MS. MCLEAN:

25 MS. MCLEAN: Good morning, Mr. Brown.

1 Have you provided direct testimony and exhibits in
2 this case?

3 MR. BROWN: Yes, I have.

4 MS. MCLEAN: And have those documents
5 been marked as Exhibit B and Subexhibits B-1 through
6 B-4?

7 MR. BROWN: That is correct.

8 MS. MCLEAN: And do you have any
9 corrections to your exhibits or testimony at this
10 time?

11 MR. BROWN: Well, there is one for
12 consideration based upon Longfellow's latest provided
13 rebuttal exhibit, which shows the actual costs of the
14 OZY [sic] wells.

15 As shown in XTO's Rebuttal Exhibit B-6,
16 the costs of Longfellow are higher than we had
17 estimated, meaning there's an even greater cost
18 overrun that they had for those developments, which is
19 4.6 million, 26 percent over AFE.

20 MS. MCLEAN: And is that the only
21 correction that you'd make, is that calculation of the
22 26 percent overage?

23 MR. BROWN: It is.

24 MS. MCLEAN: And do you adopt your
25 written testimony as your direct testimony today in

1 this matter?

2 MR. BROWN: I do.

3 MS. MCLEAN: Thank you. Have you
4 reviewed the exhibit submitted by Longfellow's
5 engineer and geologist?

6 MR. BROWN: Yes.

7 MS. MCLEAN: And what's your
8 understanding of Longfellow's position in this case?

9 MR. BROWN: Well, Longfellow, they
10 proposed what we think is an overtly dense development
11 of eight 1-mile laterals at 16 wells per section
12 spacing, which would be a step out from existing
13 developments to the south, existing horizontal
14 developments.

15 In addition, their proposed costs are
16 considerably higher than other Yeso operators. And so
17 what -- we would evaluate their proposal as being
18 aggressive and capitally efficient as compared to
19 other joint interest proposals we -- we review.

20 MS. MCLEAN: Did you mean capitally
21 inefficient? You said --

22 MR. BROWN: Capitally inefficient.
23 Thank you.

24 MS. MCLEAN: And you provided rebuttal
25 exhibits, which have been marked as Exhibits B-5

1 through B-7; correct?

2 MR. BROWN: That is correct.

3 MS. MCLEAN: All right. Let's go
4 through these rebuttal exhibits. Okay. I'm going to
5 share my screen. Okay. And this is what has been
6 marked as Rebuttal Exhibit B-5. Can you please tell
7 me what this is showing?

8 MR. BROWN: Well, what this shows is a
9 regional map. It's a -- a substantial part of the
10 Yeso trend, and it shows the proposed Van Halen area
11 but also the Longfellow Marley and Bonzo developments
12 that they had referenced.

13 MS. MCLEAN: And so why do you show the
14 Bonzo and Marley wells on this exhibit?

15 MR. BROWN: Well, those are two of the
16 analogue developments that -- that Longfellow has
17 proposed to support their plan for Van Halen.

18 MS. MCLEAN: And these are
19 approximately 22 miles to the southwest of the
20 proposed Van Halen development?

21 MR. BROWN: That's correct.

22 MS. MCLEAN: And why is this distance
23 and direction of the Bonzo and Marley wells from the
24 Van Halen development significant?

25 MR. BROWN: Well, just simply because

1 Van Halen is far away to the northwest and outside of
2 the core of the Yeso play in this area.

3 MS. MCLEAN: And what do you mean when
4 you say "the core of the Yeso play"?

5 MR. BROWN: What I mean by "core of the
6 play" is where the majority of the established Yeso
7 development and production is -- is situated, the area
8 of highest resource quality.

9 MS. MCLEAN: And how do you identify
10 that core in this map here, which is Exhibit B-5?

11 MR. BROWN: Well, just generally
12 speaking, I would say the area with the highest well
13 density.

14 MS. MCLEAN: And is that over here, by
15 Bonzo and Marley?

16 MR. BROWN: That's correct. And it
17 follows a trend that you can see by the established
18 red lines that represent horizontal developments as
19 well as the green dots that you can see in a kind of
20 arcuate shape there, running to the south of Van
21 Halen.

22 MS. MCLEAN: And so it's getting less
23 developed as we head toward Van Halen; right?

24 MR. BROWN: That is correct. As you
25 move to the north, the development is less.

1 MS. MCLEAN: And what do you generally
2 see in terms of spacing -- of well spacing in this
3 area?

4 MR. BROWN: Generally, what we see is
5 eight wells per section. Now, there have been some
6 local instances of a bit higher than that, perhaps up
7 to about 11 or 12 wells per section. And keep in mind
8 I'd also note that that is the area off to the south
9 of Van Halen.

10 MS. MCLEAN: And why is that well
11 spacing -- why is that important, and why do we keep
12 talking about that?

13 MR. BROWN: Well, it's really because,
14 you know, the -- the core of the play is off to the
15 south, and that would be the area of the resource that
16 could sustain the higher well density.

17 But as you move progressively to the
18 north, the resource can't support that additional
19 development, otherwise resulting in kind of
20 over -- over-depletion. And so that -- that's really
21 the significance that we see.

22 MS. MCLEAN: Okay. And yesterday, we
23 did hear testimony about wells directly to the south
24 of Van Halen. I believe it was some Hilcorp and Spur
25 wells. What's the well spacing there?

1 MR. BROWN: Well, most of the Hilcorp
2 development, which is a bit earlier, that's at eight
3 wells per section overall for the Yeso.

4 But what I would point out is
5 the -- the Spur Energy, which it has developments that
6 have -- or sorry, wells that have come online as
7 recently as 2024 to the south and east but only a
8 section away from Van Halen but again off to the south
9 that have up to 11 wells per section but still less
10 than the 16 wells per section that Longfellow is
11 proposing.

12 MS. MCLEAN: And have you reviewed the
13 production of those wells?

14 MR. BROWN: Yes, we have. And what
15 I'd -- what I'd say is I would contrast the production
16 of those wells, as Longfellow had noted. You know,
17 the -- the Bonzo and Marley developments, which
18 they're using as an analogue, have relatively high
19 production. They're in the core of the play.

20 But these areas even just south of Van
21 Halen have considerably lower overall cumulative
22 production, and the lowest performer out there is
23 actually the more recent Spur Energy wells at their
24 Big and Pasty Development, I think it's called.

25 That was at 11 wells per section, so

1 denser than the 8 wells per section, yet the worst
2 performer.

3 MS. MCLEAN: So what do you believe
4 will happen if Longfellow drills 16 wells per section
5 in the proposed Van Halen spacing unit?

6 MR. BROWN: Our concern is that, you
7 know, that will result in over-depletion of the
8 reservoir and wells that aren't as productive as they
9 otherwise would be.

10 MS. MCLEAN: And can you tell me what
11 XTO's preferred plan of development for its lease
12 would be?

13 MR. BROWN: Well, generally speaking,
14 what we would propose is -- is extended laterals,
15 which I don't think Longfellow would disagree,
16 assuming you can come in with the costs originally
17 proposed, would result in more capitally efficient
18 project.

19 We'd like to see no non-productive
20 lateral length as -- as we see in Longfellow's
21 proposal of about 2,000 feet. And further, what we
22 would like to see is costs in line with other
23 operators who are active in this trend.

24 MS. MCLEAN: And XTO hasn't actually
25 sent out any proposals reflecting this, because up

1 until February 3rd, XTO believed it was working with
2 Longfellow on developing its acreage?

3 MR. BROWN: That is correct.

4 MS. MCLEAN: And now XTO is working
5 with Mack because that -- XTO believes that is its
6 only hope to save its lease; is that correct?

7 MR. BROWN: I'm sorry. Could you
8 repeat the question?

9 MS. MCLEAN: Is -- and now XTO is
10 working with Mack in the development that we saw in
11 Rebuttal Exhibit A-8 and what I'd like to show as
12 Rebuttal Exhibit B-7. I know there's an objection to
13 that --

14 (XTO Exhibit B-7 was marked for
15 identification.)

16 MR. BROWN: Yes.

17 MS. MCLEAN: -- because that is what we
18 believe is our only hope at saving the lease; correct?

19 MR. BROWN: Yes. We -- we believe that
20 that would represent a much more optimal development
21 plan for this area, considering the resource
22 uncertainty that we have.

23 MS. MCLEAN: And that optimal
24 development plan is what you have submitted as
25 Rebuttal Exhibit B-7?

1 MR. BROWN: That is correct.

2 MS. MCLEAN: I'd like to move for the
3 admission of Rebuttal Exhibit B-7 at this time.

4 THE HEARING EXAMINER: Ms. Shaheen?

5 MS. SHAHEEN: I have no objection. It
6 relates to Exhibit A-8, and we waived our objection
7 there.

8 THE HEARING EXAMINER: Okay. Thank
9 you. B-7 is admitted, which means that all of XTO's
10 exhibits have been admitted at this point.

11 (XTO Exhibit B-7 was received into
12 evidence.)

13 MS. MCLEAN: Thank you.

14 BY MS. MCLEAN:

15 MS. MCLEAN: Let's go to our Rebuttal
16 Exhibit B-6. Can you tell me what this exhibit shows?

17 MR. BROWN: Yes. What this chart shows
18 is really a cost comparison of Yeso trend operators
19 across the area. And so what it -- what it is showing
20 is a plot of our drilling costs expressed on a dollar
21 per lateral foot basis on the y-axis and then lateral
22 length on the x-axis.

23 And you can see all of the points there
24 shown represent the development costs a dollar per
25 lateral foot for AFE proposals that we receive.

1 The -- the points that are shown in black represent
2 other parties. The points in red are Longfellow's
3 proposals that we have received.

4 MS. MCLEAN: Okay. And you show here
5 on Exhibit B-6 there are four different sets of
6 proposed well costs that XTO received from Longfellow;
7 is that correct?

8 MR. BROWN: That is correct.

9 MS. MCLEAN: And of those four
10 different sets of cost proposals, three were actually
11 within the last 20 days?

12 MR. BROWN: That is correct.

13 MS. MCLEAN: And when you put on here
14 "2/2026 statements," what are you referring to?

15 MR. BROWN: I'm referring to the
16 pre-hearing statement that we had received on Friday
17 of last week.

18 MS. MCLEAN: So you mean you hadn't
19 seen these projected cost estimates until receiving
20 Longfellow's exhibits for this hearing?

21 MR. BROWN: That is correct.

22 MS. MCLEAN: And why are there two
23 points on this chart for 2/2026?

24 MR. BROWN: Well, there -- as you can
25 see there, there have been multiple proposals that

1 we've received with significantly varying costs. The
2 one common thread between all of these, I neglected to
3 point out the dash line on the -- on the chart, which
4 represents the line of best fit.

5 As you can see, all of Longfellow's
6 points in red are above that line. We've received
7 a -- a variety of proposals at -- at different times
8 with different costs. Those just reflect a few of
9 them.

10 One example to point out is the most
11 costly, which is their initial proposed well, which
12 they're calling an appraisal well, which would bear
13 the burden of additional costs. That is considerably
14 higher than what we've seen elsewhere in -- in this
15 trend.

16 MS. MCLEAN: And sitting here today, do
17 you know which cost estimate XTO should use to
18 evaluate this development plan?

19 MR. BROWN: I do not.

20 MS. MCLEAN: Do you have any confidence
21 that any of the costs provided by Longfellow are
22 reliable?

23 MR. BROWN: I do not.

24 MS. MCLEAN: Why not?

25 MR. BROWN: We've received multiple

1 proposals through time. It just is not clear to us
2 which one we would finally land on. The one common
3 theme across the whole way is that costs are
4 substantially higher than other operators that we've
5 seen and review regularly.

6 MS. MCLEAN: And we just looked at your
7 Exhibit B-7, and we heard about the Mack potential
8 development from Ms. McKee. How do Mack's proposed
9 costs compare to Longfellow's?

10 MR. BROWN: Substantially less in line
11 with other operators, such as Riley Permian or Spur.

12 One thing I would like to draw your
13 attention to there is the initial proposed well from
14 Longfellow, their 5H, what they're calling again an
15 appraisal well that we had received in early May -- or
16 sorry, early February. That's the highest cost.

17 The comparable cost that we're in
18 discussions with Mack on now for an initial well that
19 has been shown in other exhibits is the point that's
20 connected by that arrow. So as you can see, quite a
21 bit less.

22 Now, it still is burdened by more
23 costs, the facilities burden, just as Longfellow had
24 expressed. But you can see how much different the two
25 are.

1 MS. MCLEAN: And Mack and Longfellow,
2 are they proposing the same lateral length?

3 MR. BROWN: Mack's proposal would be
4 slightly longer than Longfellow's because of not
5 having the 2,000 foot of unproductive lateral.

6 MS. MCLEAN: And then finally I want to
7 ask about Longfellow's engineer's statement that their
8 top-performing Yeso wells can be attributed to their
9 higher fluid loading, and that justifies their higher
10 cost. Do you agree with that?

11 MR. BROWN: I do not agree with that
12 statement.

13 MS. MCLEAN: And why not?

14 MR. BROWN: The reason is because they
15 show a chart of top-performing wells, but the Yeso
16 formation and its productivity is not constant across
17 the area.

18 Their top-performing wells as noted on
19 the chart are all from the core of the play, closer
20 to, you know, what we would call a -- a sweet spot in
21 the area, considerably higher production.

22 So translating that over to this other
23 area, which is further to the north, where our
24 reservoir quality is expected to degrade, as well
25 as -- as thickness and reduced natural fracturing of

1 the system does not seem appropriate to us.

2 Any substantiation that they
3 would -- or any claim that they would make on
4 additional fluid loading making up some of that
5 difference, we would need to see evidence to support
6 that. We've seen none.

7 MS. MCLEAN: So do you believe that
8 these additional costs from Longfellow are justified?

9 MR. BROWN: No.

10 MS. MCLEAN: In your opinion, will
11 Longfellow's development plan best prevent waste and
12 protect correlative rights?

13 MR. BROWN: No.

14 MS. MCLEAN: And would Longfellow's
15 plan result in waste and violate XTO's correlative
16 rights?

17 MR. BROWN: Yes.

18 MS. MCLEAN: And can you please
19 summarize the reasons why you believe the plan would
20 result in waste and not protect correlative rights?

21 MR. BROWN: Again, overly dense
22 development, particularly for this area, where
23 resource quality is degrading up to the north.

24 Significant portion of the lateral
25 additional costs, unproductive lateral, approximately

1 2,000 feet, and costs that are way out of line with
2 other operators in the Yeso trend.

3 MS. MCLEAN: Thank you, Mr. Brown. I
4 have no further questions.

5 I pass the witness.

6 THE HEARING EXAMINER: Ms. Shaheen?

7 MS. SHAHEEN: Thank you.

8 CROSS-EXAMINATION

9 BY MS. SHAHEEN:

10 MS. SHAHEEN: Good morning, Mr. Brown.

11 MR. BROWN: Good morning.

12 MS. SHAHEEN: Sorry. I'm just getting
13 to my -- got too many documents open here. Would you
14 agree that perfing 158 feet of a 40-acre tract will
15 create economic waste? Yes or no?

16 MR. BROWN: I -- what I would say is
17 the intent is to preserve the leasehold so that we can
18 come back and more optimally develop it -- develop the
19 area later --

20 MS. SHAHEEN: I'll ask the question
21 again, because you didn't answer the question that I
22 asked. Would you agree that perfing only 158 feet of
23 a 40-acre tract would result in economic waste? Yes
24 or no?

25 MR. BROWN: Yes, if that were the only

1 portion of the well --

2 MS. SHAHEEN: Thank you.

3 MR. BROWN: -- the only well that was
4 drilled.

5 MS. SHAHEEN: Thank you. If the State
6 is contributing 97 percent of a productive lateral but
7 only receiving 80 percent of the revenue on
8 production, doesn't that result in waste to the State?
9 Yes or no?

10 MR. BROWN: It would in that
11 hypothetical situation.

12 MS. SHAHEEN: Have you analyzed well
13 performance from all other operators in these AFEs?

14 MR. BROWN: Yes. We -- we look at many
15 different analogues across the whole area.

16 MS. SHAHEEN: Does production vary by
17 operator?

18 MR. BROWN: It can, but not always.

19 MS. SHAHEEN: From your analysis, did
20 you determine whether production varied by operator?

21 MR. BROWN: Varied by operator? That's
22 a difficult question to answer. I think I would need
23 to go back and -- and review the data in more detail
24 to give you a -- a solid answer on that, Ms. Shaheen.

25 MS. SHAHEEN: So does that mean you

1 have not fully analyzed well performance from all
2 other operators?

3 MR. BROWN: No, we fully analyze it.
4 I'm just saying what's within my current recall in
5 front of you now.

6 MS. SHAHEEN: So you don't know whether
7 production varies by operator based on your analysis?
8 Yes or no?

9 MR. BROWN: Well, what I can say,
10 I -- I would attribute it varying more by area than
11 operator.

12 MS. SHAHEEN: But you don't know one
13 way or another whether production is varied by
14 operator; do you?

15 MR. BROWN: Well, I just said that
16 that's, you know, what -- what I would state. I would
17 say that the dominant control is not necessarily the
18 operator. It is the area in which the development
19 occurs as well as the design of the development, such
20 as well density.

21 MS. SHAHEEN: Yeah, I guess I'm
22 not -- maybe I need to rephrase the question.

23 MR. BROWN: Yes, please.

24 MS. SHAHEEN: Did you analyze well
25 performance from all other operators in this area?

1 MR. BROWN: Yes. Frequently, we do
2 when we make evaluations.

3 MS. SHAHEEN: And does production vary
4 by operator? Yes or no?

5 MR. BROWN: I -- I guess I dispute the
6 question that you're asking. Yes, it would, but it's
7 not necessarily due to different operators. It's due
8 to the area in which they're developing.

9 MS. SHAHEEN: Can higher costs be
10 justified for better-performing wells? Yes or no?

11 MR. BROWN: Not always.

12 MS. SHAHEEN: Are operators --

13 MR. BROWN: So what -- what I would say
14 to your -- your --

15 MS. SHAHEEN: I think you've answered
16 my question. Thank you.

17 MR. BROWN: Well --

18 MS. SHAHEEN: Are operators in the Yeso
19 play testing north of the Yeso shelf ramp crest core?

20 MR. BROWN: Could you repeat the
21 question?

22 MS. SHAHEEN: Are operators in the Yeso
23 play testing north of the Yeso shelf ramp crest core?

24 MR. BROWN: North of the ramp crest?
25 Yes.

1 MS. SHAHEEN: Isn't Longfellow's Bonzo
2 pad north of the core of the play?

3 MR. BROWN: I would say it's much
4 closer to the core of the play or within the core of
5 the play.

6 MS. SHAHEEN: Is it north of the core
7 or within the northern part of the core? Yes or no?

8 MS. MCLEAN: Objection, asked and
9 answered. He just answered the question.

10 THE HEARING EXAMINER: Ms. Shaheen?

11 MS. SHAHEEN: He didn't answer the
12 question that I asked. He answered with a -- what
13 he -- his answer related to something different.

14 MS. MCLEAN: I don't think it did.

15 THE HEARING EXAMINER: Ms. Shaheen,
16 what was the question again?

17 MS. SHAHEEN: The answer is are
18 operators -- oh, no. The question is whether
19 Longfellow's Bonzo pad is north of the core of the
20 play, and then I asked him -- he said it's within the
21 core of the play, and then I asked him is it in the
22 north part of the core of the play?

23 THE HEARING EXAMINER: I'll allow the
24 question.

25 Would you please answer it?

1 MR. BROWN: Yes.

2 BY MS. SHAHEEN:

3 MS. SHAHEEN: Would it surprise you to
4 know that the oil in place in the Van Halen is higher
5 than the Bonzo pad? Yes or no?

6 MR. BROWN: Yes.

7 MS. SHAHEEN: Could higher oil in place
8 lead to better reserves or economics?

9 MR. BROWN: Not always.

10 MS. SHAHEEN: Would higher costs for
11 higher reserves be justified?

12 MR. BROWN: Not always.

13 MS. SHAHEEN: I have no further
14 questions of Mr. Brown. Thank you.

15 THE HEARING EXAMINER: Thank you, Ms.
16 Shaheen.

17 Mr. Garcia?

18 MR. GARCIA: I just have one question.

19 CROSS-EXAMINATION

20 BY MR. GARCIA:

21 MR. GARCIA: You stated if Maxwell has
22 drilled that XTO plans on, you know, developing the
23 area better. I guess my main question is do you know
24 what that timeline looks like for further development?

25 MR. BROWN: That's a difficult question

1 to answer.

2 But we would desire for it to be an
3 expeditious development of the area, starting with the
4 initial well that will provide us with early
5 information, as Longfellow suggests, to appraise
6 ultimately other elements of the development design,
7 such as wells per section.

8 MR. GARCIA: I guess to just clarify,
9 like, within a year or two or post year or two?

10 MR. BROWN: Yeah, I would say within
11 the next few years.

12 MR. GARCIA: That's all my questions.

13 THE HEARING EXAMINER: All right.

14 Thank you.

15 Ms. McLean, does that raise any
16 redirect for you?

17 MS. MCLEAN: No, it doesn't.

18 THE HEARING EXAMINER: All right.

19 Thank you.

20 All right. Thank you, Mr. Brown.

21 Does that conclude your case in chief?

22 MS. MCLEAN: It does. We rest.

23 THE HEARING EXAMINER: Is there
24 anything left for us to do while the evidentiary
25 record is open?

1 MS. MCLEAN: Can we just confirm that
2 all the exhibits that the parties have tried -- have
3 introduced or offered with the exception of Longfellow
4 Rebuttal Exhibit 1 have been admitted into the record?

5 THE HEARING EXAMINER: That's what my
6 records show.

7 Ms. Shaheen --

8 MS. MCLEAN: Okay. Perfect.

9 THE HEARING EXAMINER: Ms. Shaheen, do
10 you agree?

11 MS. SHAHEEN: I agree except that there
12 will be amendments to Ms. McKee's related to our
13 Rebuttal Exhibit 1.

14 THE HEARING EXAMINER: Right.

15 MS. MCLEAN: Exhibit A-3.

16 THE HEARING EXAMINER: That's right.
17 There will be.

18 Okay. Is there anything else --

19 MS. MCLEAN: Is that --

20 THE HEARING EXAMINER: Go ahead, Ms.
21 McLean.

22 MS. MCLEAN: Just confirming, our
23 Exhibit A-3 is the only thing that the division is
24 requiring to be revised?

25 THE HEARING EXAMINER: Yes.

1 MS. MCLEAN: Okay.

2 THE HEARING EXAMINER: Yes.

3 MS. SHAHEEN: I was
4 wondering -- I -- for some reason, I thought maybe you
5 were going to require her to add the 2025 emails to
6 the Exhibit A-4 as well. Is it A-4?

7 THE HEARING EXAMINER: Well, she -- I
8 didn't know about A-4. I understood A-3, that was the
9 contact list. Do you -- are you requesting that they
10 add those to the A-4?

11 MS. SHAHEEN: I just want to double
12 check that it's the A-4. But yes, I would request
13 that they add the October 2025 emails to their exhibit
14 with emails. And it is A-4.

15 MS. MCLEAN: We have --

16 THE HEARING EXAMINER: Go ahead.

17 MS. MCLEAN: We have three separate
18 exhibits with emails that support -- you know,
19 directly support Ms. McKee's testimony.

20 The addition of the October 2025 email
21 chain would add an additional 30 pages of unnecessary,
22 you know, conversations that we're not denying take
23 place and that are going to be on the timeline of
24 communications. We haven't included the August
25 emails. We haven't included December emails.

1 We've chosen, you know, as is our
2 right, to introduce three specific email chains that
3 support, you know, our position. We will amend
4 Exhibit A-3 to add the emails that are reflected in
5 that proposed Rebuttal Exhibit 1.

6 But I think it is not necessary and
7 would make no sense to just stack those into our
8 exhibits when they have nothing to do with the
9 testimony that goes to Exhibits A-4 through A-6.

10 THE HEARING EXAMINER: So the reason
11 that I excluded Rebuttal Exhibit 1 was because at
12 first, I thought it was -- you objected to it. And
13 then I realized that for the sake of completeness, I
14 felt as though Ms. Shaheen had a right to show the
15 division the communication.

16 Now, if you don't want to amend your
17 Exhibit A-4, then I would consider allowing the
18 Rebuttal Exhibit 1 in to provide completeness to the
19 communication, because -- well, I don't see how it
20 prejudices you -- haven't made -- I'm sorry?

21 MS. MCLEAN: I'm just thinking while
22 you're just looking at --

23 THE HEARING EXAMINER: Oh, okay. I
24 wasn't sure. So I don't see how it prejudices you.
25 Ms. -- your witness has admitted that there were those

1 conversations that were omitted inadvertently.

2 And to correct the inadvertent
3 omission, I thought you would agree to amend your
4 exhibits to show not only the call logs or whatever
5 you call them, communication logs, but also to include
6 the emails. But I can't force you, but that's why I
7 was keeping out Rebuttal Exhibit 1.

8 MS. MCLEAN: Yes, and we have no
9 problem amending Exhibit A-3, which is the timeline of
10 communication.

11 And then it was my understanding that
12 that would address, you know, the completeness of the
13 conversation issue, although Ms. English also has
14 those communications, you know, on her timeline as
15 well.

16 But if we want, you know, totally
17 complete and every single email, then we would need to
18 just introduce the Rebuttal Exhibit 1 -- or admit
19 that, because it has -- it goes no --

20 I don't see where I would just -- why I
21 would just stick it into our Exhibit A-4 when we have
22 three different email exhibits that are all from this
23 year and not from last year.

24 THE HEARING EXAMINER: Okay. So let me
25 ask you something. When does -- and I don't have A-4

1 in front of me, because my computer is not working.
2 So I only have this iPad and my phone, and I can't
3 see --

4 MS. MCLEAN: I can tell you --

5 THE HEARING EXAMINER: No, no. It's
6 okay. I'm just asking you a question. What date does
7 your A-4 begin?

8 MS. MCLEAN: That -- yeah, that's what
9 I'm going to look at right now. So Exhibit A-4 is the
10 first email we've included, and that goes -- it's an
11 email chain from January 7th to January 9th.

12 THE HEARING EXAMINER: Okay. January 7
13 of what year?

14 MS. MCLEAN: Of 2026.

15 THE HEARING EXAMINER: 2026. Okay.
16 Was there a reason why you started there?

17 MS. MCLEAN: Yes, because in our
18 testimony, Ms. McKee details the negotiations between
19 Longfellow and XTO, and she does say, you know,
20 paragraph 12, they've been discussing a term
21 assignment since September 2025, then on December 27,
22 2025, what happened.

23 And then we start getting into more
24 detail, because things start becoming a little more
25 rocky, and we attach that exhibit to support the fact

1 that we emailed Longfellow twice on January 7th to
2 confirm that Longfellow would not pool our interest in
3 this case.

4 THE HEARING EXAMINER: Ms. McLean? Ms.
5 McLean?

6 MS. MCLEAN: Yes.

7 THE HEARING EXAMINER: Excuse me. I
8 don't feel like I'm getting an answer to the question,
9 which I think should be a short and sweet answer. Why
10 did you begin on January 7?

11 MS. MCLEAN: Well, that's just the
12 first place that we thought we wanted to introduce the
13 email to support our statement.

14 THE HEARING EXAMINER: Okay. Okay. I
15 understand. It supports your position.

16 And, Ms. Shaheen, when do you want to
17 begin the communication emails?

18 MS. SHAHEEN: From the beginning.

19 THE HEARING EXAMINER: Which is when?

20 MS. SHAHEEN: From August -- well, I'll
21 need to look at the rebuttal exhibit. It includes --

22 THE HEARING EXAMINER: That would be
23 helpful. Thank you.

24 MS. SHAHEEN: And I would just note for
25 the record that it's not necessary to include the

1 C-102s that are attached to the email, because those
2 are already in the record. So it wouldn't be 33
3 pages. Okay. LFE Rebuttal Exhibit 1? Oh, no. Yeah.
4 So the first email is August 19th, I believe.

5 I'm having to go on reverse chron. I
6 believe the first email is August 19th.

7 THE HEARING EXAMINER: Of 2025?

8 MS. SHAHEEN: Yes. And there are two
9 or three emails from August 19, 2025.

10 THE HEARING EXAMINER: And why -- and,
11 Ms. Shaheen, why do you want to start there?

12 MS. SHAHEEN: Because that's where the
13 email communications begin, and there are not very
14 many. I mean, it's one, two --

15 THE HEARING EXAMINER: Okay, Ms.
16 Shaheen. Ms. Shaheen, I didn't ask that.

17 MS. SHAHEEN: Okay.

18 THE HEARING EXAMINER: I just asked you
19 a simple question. So that we can be done rapidly,
20 I'm trying to get some simple answers here.

21 MS. SHAHEEN: Yeah.

22 THE HEARING EXAMINER: So let me talk
23 to --

24 And, Ms. McLean, explain to me why it's
25 prejudicial to have the communication starting at

1 August 19 from Ms. Shaheen.

2 MS. MCLEAN: We are at no time arguing
3 that it's prejudicial.

4 THE HEARING EXAMINER: Okay.

5 MS. MCLEAN: I just -- I had said I
6 thought it was cumulative. The landman has it in her
7 communication timeline, all the dates of those. We're
8 not disputing that those happened. But in the
9 interest of timely -- it doesn't honestly matter.

10 THE HEARING EXAMINER: Okay. All
11 right. All right. Well, I appreciate that. I
12 appreciate that, Ms. McLean. To me, to me, if you're
13 going to start at a random place in the
14 communications, it -- I understand Ms. Shaheen's
15 desire to start on August 19.

16 Ms. Shaheen, can you clean up your
17 Rebuttal Exhibit 1 to omit the C-102s?

18 MS. SHAHEEN: Absolutely.

19 THE HEARING EXAMINER: I thought so.

20 Okay. So here's what I'm going to do.
21 I'm going to admit Rebuttal Exhibit 1 without -- you
22 know, in an amended form without the C-102s. I still
23 require XTO to amend its Exhibit A-3 only.

24 Otherwise -- so now all exhibits have
25 been admitted, and only two are being amended,

1 Longfellow's Rebuttal 1 and XTO's amended A-3.

2 (Longfellow Exhibit 1 was received into
3 evidence.)

4 Okay. So now we've completed that part
5 of the evidentiary record. Is there anything else
6 while the record is open that we need to do when it
7 comes to evidence?

8 I'll start with you, Ms. Shaheen.

9 MS. SHAHEEN: Not that I can think of
10 at this time. Thank you.

11 THE HEARING EXAMINER: Okay. Thank
12 you.

13 Ms. McLean?

14 MS. MCLEAN: Nothing from XTO.

15 THE HEARING EXAMINER: Okay. Very
16 good. Excellent.

17 Let's talk about these closings, and I
18 know, Ms. Shaheen, you want to move this along. Did
19 you contact the court reporter?

20 MS. SHAHEEN: I have not yet contacted
21 the court reporter.

22 THE HEARING EXAMINER: Okay. All
23 right. Well, with that being said, Mr. Garcia does
24 want written closings.

25 Mr. Garcia, is there anything else that

1 you need that would be helpful to you?

2 MR. GARCIA: I don't believe so. And
3 closings can be, you know, focused on the seven
4 criteria the division uses. You know, there doesn't
5 have to be a ton of extra in there.

6 THE HEARING EXAMINER: Okay. That
7 sounds good. Do you want to put a -- do you want to
8 put a 15-page limit on closings?

9 MR. GARCIA: Oh. That sounds good to
10 me.

11 THE HEARING EXAMINER: That sounds
12 good.

13 Does that work for the parties?

14 MS. SHAHEEN: That works --

15 MS. MCLEAN: Yes --

16 THE HEARING EXAMINER: All right --

17 MS. SHAHEEN: That works for
18 Longfellow.

19 THE HEARING EXAMINER: And I will say
20 that any proposed finding of fact must cite to the
21 record; all right?

22 MS. SHAHEEN: Understood.

23 THE HEARING EXAMINER: If it doesn't,
24 it won't be considered.

25 MS. SHAHEEN: Understood.

1 THE HEARING EXAMINER: All right --

2 MR. GARCIA: Can I add one other item
3 in that, Gregory?

4 THE HEARING EXAMINER: I'm sorry. I
5 didn't hear you, Mr. Garcia.

6 MR. GARCIA: When you guys draft your
7 findings of facts and you're citing the record, can
8 you identify if you're citing the AI transcript or the
9 real transcript?

10 MS. MCLEAN: Can I just request that we
11 cite the real one? Because I've seen the AI one, and
12 it -- I don't know if it's reliable.

13 THE HEARING EXAMINER: Of course.

14 MR. GARCIA: Agreed. That's why I was
15 asking.

16 THE HEARING EXAMINER: No problem.

17 So, Mr. Aragon, are you open to an
18 expedited transcript?

19 THE REPORTER: Yes. I can definitely
20 put in that request for the transcriptionist.

21 THE HEARING EXAMINER: You can.

22 So, Ms. Shaheen, you have Mr. Aragon's
23 contact.

24 Mr. Aragon, do you want to give Ms.
25 Shaheen your phone number as well?

1 THE REPORTER: Yes. Absolutely.

2 And, Ms. Shaheen, let me check to make
3 sure I have your correct email, and I will just send
4 you an email that has all of my information. I have
5 sshaaheen@spencerfane.com.

6 MS. SHAHEEN: That is correct. Thank
7 you.

8 THE HEARING EXAMINER: Perfect,
9 perfect. Ms. Shaheen, if you do work something out,
10 please let Ms. McLean and Ms. Tschantz know and Mr.
11 Garcia as well that you have arranged for an expedited
12 transcript.

13 MS. SHAHEEN: I will do that.

14 THE HEARING EXAMINER: All right.
15 Typically, transcripts take two weeks. If two weeks
16 from today -- and I'm just going on the idea that
17 there is no expedite at this time. That would mean
18 the 13th. That's Friday the 13th --

19 MS. MCLEAN: Friday the 13th.

20 THE HEARING EXAMINER: -- of March
21 would be when the transcript is technically due at
22 this point, and the division pays for that
23 un-expedited transcript. If you do choose to
24 expedite, whatever cost is the expedite cost will be
25 borne by your client.

1 MS. SHAHEEN: Understood. And
2 Longfellow is -- stands ready to request and pay for
3 the expedited transcripts.

4 THE HEARING EXAMINER: Okay.

5 MS. SHAHEEN: We would request that the
6 closing statements be due a week from yesterday.

7 THE HEARING EXAMINER: I don't
8 understand.

9 MS. SHAHEEN: I'm asking that our
10 closing statements be due on March -- looking for my
11 calendar here.

12 MS. MCLEAN: March 5th, which is less
13 than a week from today.

14 MS. SHAHEEN: Yes, March 5th. And the
15 reason I ask that is because I am leaving on the 6th
16 and will be out for ten days.

17 THE HEARING EXAMINER: But the -- but
18 you haven't arranged an expedited transcript at this
19 time.

20 MS. SHAHEEN: Well, I'm hoping that we
21 can -- let me say I ask that they be due on March 5th
22 or perhaps March 6th, assuming we can get the
23 expedited transcripts by, say, Wednesday.

24 MS. MCLEAN: That's kind of -- no. I
25 mean, I -- that's unreasonable, to ask for closings

1 with findings and conclusions that cite to the record
2 within -- under 24 hours.

3 THE HEARING EXAMINER: I agree, Ms.
4 Shaheen. But, Ms. Shaheen, I mean, if you want to
5 submit your closing that quickly, you're more than
6 welcome to, and I don't know what's going to happen
7 with the expedite service. So at this point, I don't
8 know what to say about that.

9 I can't order Ms. McLean -- she has to
10 represent her client as she sees best, and I just
11 can't require her to do that. But I certainly can
12 require within a week of whenever the --

13 Do you feel, Ms. McLean, a week is
14 fair?

15 MS. MCLEAN: I mean, typically, we see,
16 I mean, at, like, 10 to 14 days, and --

17 THE HEARING EXAMINER: Right. I know
18 typically. I know typically, yes.

19 MS. MCLEAN: If we could do the shorter
20 ten-day timeframe. I just -- it -- you know, with the
21 press of all of the other contested hearings that we
22 have that are set in March, that's -- that itself is a
23 big ask. And so I would just ask --

24 We did go to this very, very quick
25 contested hearing, you know, less than two weeks after

1 we had the status conference. We were prepared for
2 that. And I would just ask for ten days after
3 receiving the transcript to file our closing brief
4 with the findings of fact and conclusions of law.

5 THE HEARING EXAMINER: Mr. Aragon, what
6 is the soonest that you can produce a transcript?

7 THE REPORTER: I don't produce the
8 transcript myself.

9 THE HEARING EXAMINER: Oh.

10 THE REPORTER: However, I can put in
11 that request if you're looking for -- what did you
12 say? By next Wednesday. That's within three days. I
13 would need to contact Veritext, and they would make
14 that final decision as to whether or not it could be
15 expedited that quickly.

16 THE HEARING EXAMINER: I see.

17 Ms. Shaheen, at this point, we don't
18 even know when the transcript's going to be ready. So
19 it's hard for me to say what a deadline is going to be
20 without knowing it. Why don't we do this?

21 Once you and Mr. Aragon work out the
22 expedited transcript, you send an email to Ms.
23 Tschantz, to me, Mr. Garcia, and Ms. McLean, letting
24 us know what date the transcript will be available.

25 And then, Ms. McLean, I understand that

1 you would like ten days. I understand that we
2 expedited this hearing and -- for Ms. Shaheen, the
3 whole point being that they have leases that they need
4 to work with.

5 I mean, Ms. Shaheen, if you want to get
6 the -- your closing argument in first, maybe Mr.
7 Garcia will have time to review your closing argument
8 first. I don't know. I mean -- but I can't
9 force -- I just don't feel -- I don't
10 feel -- normally, we do two weeks.

11 I'm comfortable with ten days. I'm
12 comfortable with seven days. But Ms. McLean is not
13 comfortable with seven days, and I understand why.
14 And I understand you're going away. So at this point,
15 I'm at a loss on what to do.

16 I want to give the parties flexibility.
17 I want you to be able to represent your clients fully,
18 and let's see what the date is. And then it'll be
19 somewhere between seven and ten days from that date,
20 and I haven't decided yet.

21 MS. SHAHEEN: Well, I appreciate you
22 taking it into consideration.

23 THE HEARING EXAMINER: Okay. So we'll
24 look for an email from you, Ms. Shaheen.

25 Otherwise, we'll look for the amended

1 exhibit packets. Please include a cover letter.

2 Ms. Shaheen, you have several
3 submissions.

4 XTO, you have at least two submissions.

5 I would rather have one final
6 submission from both parties with a cover letter
7 explaining what you got in there with a corrected
8 table of contents so that it's real easy for Mr.
9 Garcia to look at the record.

10 MS. MCLEAN: We can do that.

11 THE HEARING EXAMINER: Ms. Shaheen?

12 MS. SHAHEEN: Yes. Absolutely.

13 THE HEARING EXAMINER: Thank you.

14 Is there anything else before we go off
15 the record?

16 MS. SHAHEEN: Not from Longfellow.

17 Thank you.

18 THE HEARING EXAMINER: Okay.

19 MS. MCLEAN: Nothing from XTO. Thank
20 you.

21 THE HEARING EXAMINER: Thank you both.

22 And thank you for the witnesses.

23 And Mr. Garcia.

24 Thank you. Have a good day.

25 MS. MCLEAN: Bye.

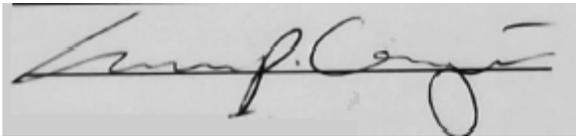
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MS. SHAHEEN: Bye-bye.
(Whereupon, at 10:28 a.m., the
proceeding was concluded.)

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CERTIFICATE

I, GERALD ARAGON, the officer before whom the foregoing proceedings were taken, do hereby certify that any witness(es) in the foregoing proceedings, prior to testifying, were duly sworn; that the proceedings were recorded by me and thereafter reduced to typewriting by a qualified transcriptionist; that said digital audio recording of said proceedings are a true and accurate record to the best of my knowledge, skills, and ability; that I am neither counsel for, related to, nor employed by any of the parties to the action in which this was taken; and, further, that I am not a relative or employee of any counsel or attorney employed by the parties hereto, nor financially or otherwise interested in the outcome of this action.

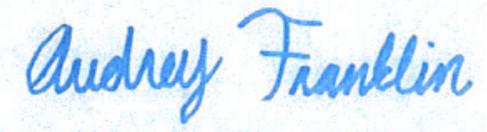


GERALD ARAGON
Notary Public in and for the
State of New Mexico

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CERTIFICATE OF TRANSCRIBER

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AUDREY FRANKLIN

[1 - 3rd]

1	12 80:7 101:20	200 60:13	3
<p>1 4:9 5:6 6:9 24:5 28:21 33:15,19 34:1 36:7,16,19,19 36:24 38:15 41:1 68:11 76:5 77:11 97:4,13 99:5 99:11,18 100:7 100:18 103:3 104:17,21 105:1,2 1,320 57:2 10 31:1 110:16 100 22:1 23:8 23:13 28:14 46:8 102 4:5 7:20 8:20,25 35:18 36:18,20,24 50:11 51:18 62:14 70:13 71:2,3,13,17,25 73:10 102s 36:16 37:1 38:19 103:1 104:17,22 10:28 114:2 10:30 65:9 66:14 10th 71:5 11 80:7 81:9,25 11th 70:8</p>	<p>125 2:5 13th 108:18,18 108:19 14 110:16 15 106:8 150 63:3 72:18 158 52:15,19,20 57:2,7 59:8 61:11 90:14,22 16 45:10 77:11 81:10 82:4 160 70:13 71:3 71:8,10,23 17 46:4 18 41:21 19 32:14 103:9 104:1,15 1953 30:2,4 19th 103:4,6 1:30 65:10 1st 19:6 29:4 32:12</p>	<p>62:15,19 70:12 71:2,7 2004 11:24 13:23 2010 28:21 29:5 2024 27:18 81:7 2025 4:9 24:20 30:16 32:14 33:6,23 37:18 38:6 40:19 98:5,13,20 101:21,22 103:7,9 2026 1:13 13:10 24:19 34:21 35:3 39:6 45:3,10 73:11 101:14 101:15 21 20:17,23 21:24 23:6 22 78:19 223 2:5 230-4410 2:8 24 110:2 25804 1:9 4:3 25th 70:25 26 76:19,22 27 1:13 5:3 101:21</p>	<p>3 9:17 11:21 28:13 31:1 41:3,4 45:1 51:20 59:13 97:15,23 98:8 99:4 100:9 104:23 105:1 30 29:23 35:5 98:21 31 14:6 31909 116:16 32 7:14 15:21 51:17 68:22 325 2:13 33 7:3 9:19 10:3,16 15:16 15:17 16:17 29:15 46:10 57:13 59:14 68:23 71:24 103:2 330 52:15 34 63:21 64:1,8 34/105 4:9 34945 115:21 3rd 14:13 15:23 16:18 17:17 18:5,9 19:10 23:18 24:2 43:5,13 43:19,21 44:2 44:12,16 46:7 47:14 48:5,12 51:12 54:11</p>
	2		
	<p>2 1:12 9:10 11:20 63:20,25 64:7,13 65:18 68:11 2,000 82:21 88:5 90:1 2/2026 85:14 85:23 20 3:5 11:17 63:1 85:11</p>		

[3rd - actually]

83:1	99:9	8:11 1:14 5:3	63:3 90:14,23
4	640 46:15	9	acreage 14:22
4 33:7,11 76:6 98:6,6,8,10,12 98:14 99:9,17 100:21,25 101:7,9 4.6 76:19 40 60:5,12 61:12 62:22 71:19 90:14,23 4th 43:8,17	66 3:6 6th 109:15,22	9 73:11 90 3:9 95 3:10 97 61:14 91:6 986-2678 2:16 9:29 64:21 9:43 74:22 9th 41:18 72:3 72:19 101:11	15:2,11,12,14 16:7 17:4,15 17:23 19:11,13 28:19,20,24 29:3,7,23 43:3 44:19,23 46:10 47:1,18,21 48:20 51:2,4 57:1,15,20 62:3 68:13 70:9,15 71:2 71:12,24 72:19 83:2
5	7	a	acres 46:16
5 34:19 45:23 45:23 77:25 78:6 79:10 5,338 59:5 50 27:25 50/50 44:18 46:15 47:18,20 505 2:8,16 56 18:17 56302b 28:15 5h 50:15 70:4 87:14 5th 32:12 109:12,14,21	7/8 4:5 70-2-17 62:2 73 3:4 74 31:11 75 3:8 7791225 1:19 7th 101:11 102:1	a.m. 1:14 74:22 114:2 ability 18:6 43:4 115:10 116:7 able 12:17 54:2 112:17 above 86:6 absolutely 104:18 108:1 113:12 acacia 13:1,6 14:1 30:6,13 67:1 access 67:23 accurate 115:9 116:5 acknowledged 22:10 acquire 29:25 acre 60:5,12 61:12 62:20	59:23 60:9,13 62:15,19,22 70:12,13 71:3 71:7,8,19,23 action 19:3 53:1,4,16 115:12,16 116:8,12 actions 51:13 active 82:23 actual 76:13 actually 5:16 7:7 9:3,23 10:2 16:4 18:6 19:22 25:4 38:20 45:1 48:19 55:19 61:20 70:9 73:15 81:23
6	8		
6 3:4 28:13,14 36:24 39:5 41:17 45:3,15 45:16,18,20 46:2,4 76:15 84:16 85:5	8 4:5 5:12 7:18 7:21,22 8:8,10 8:12,17 9:10 28:13,18 35:16 35:18 36:22 49:18 50:8 62:10 71:18 82:1 83:11 84:6 80 59:23 61:16 91:7 83/84 4:7 87501 1:17 2:6 2:14		

[actually - appreciate]

<p>82:24 85:10 add 98:5,10,13 98:21 99:4 107:2 adding 37:22 addition 10:25 19:9 77:15 98:20 additional 37:22 80:18 86:13 89:4,8 89:25 98:21 additionally 19:19 46:25 address 100:12 adds 38:15,20 admission 84:3 admit 100:18 104:21 admitted 5:5,8 5:11 8:10 25:3 26:5 84:9,10 97:4 99:25 104:25 admitting 40:25 adopt 6:18 76:24 advisor 27:9 afe 76:19 84:25 afes 91:13 affirm 5:18 afforded 13:24 aggressive 77:18</p>	<p>ago 10:12 agree 14:5,11 15:4,6 16:9 19:4 51:8 58:17 59:3,8 59:13,18,25 60:20 61:2 88:10,11 90:14 90:22 97:10,11 100:3 110:3 agreed 42:10 53:1,3 107:14 agreement 28:9 47:16 51:6,9 56:8 57:1,6,11 58:12,16 61:21 ahead 5:25 36:14 56:3 61:7 62:11 66:9 71:16 75:20 97:20 98:16 ai 107:8,11 aide 2:19 aligned 67:14 aligns 42:15 allocated 60:1 60:15 61:13,22 62:19,22 63:1 allocation 61:16 62:3 allow 43:9 44:13 63:14 94:23</p>	<p>allowed 67:23 allowing 99:17 alternative 19:13 55:12 amend 39:20 40:3 41:1 72:9 99:3,16 100:3 104:23 amended 4:5 8:20 9:4 51:4 51:17 70:18 73:12 104:22 104:25 105:1 112:25 amending 54:19 100:9 amendment 50:4 58:6 amendments 97:12 analogue 78:16 81:18 analogues 91:15 analysis 91:19 92:7 analyze 92:3,24 analyzed 91:12 92:1 answer 55:23 68:7 90:21 91:22,24 94:11 94:13,17,25 96:1 102:8,9</p>	<p>answered 58:14 60:18 64:6 73:15 93:15 94:9,9 94:12 answers 103:20 apd 4:5 8:20,25 9:3,4,7 10:19 50:5,7,18,19,23 51:1 54:19 70:18 72:9 73:12 apologies 45:24 apologize 75:12 apparent 16:13 appear 32:19 appears 59:11 application 14:8 34:6,11 34:25 46:11 49:22,25 50:2 53:25 54:4 63:15 applications 12:24 applied 7:9 appointment 65:4,12 appraisal 86:12 87:15 appraise 96:5 appreciate 104:11,12 112:21</p>
--	--	--	---

[approach - basin]

<p>approach 42:15</p> <p>appropriate 89:1</p> <p>approve 40:3</p> <p>approved 7:13 9:7,8,24 10:2 10:16,20 50:21 70:13 71:4</p> <p>approximately 59:15 78:19 89:25</p> <p>aragon 1:18 107:17,24 111:5,21 115:2 115:22</p> <p>aragon's 107:22</p> <p>arcuate 79:20</p> <p>area 15:5 16:8 17:5 24:16 30:24 78:10 79:2,7,12 80:3 80:8,15 83:21 84:19 88:17,21 88:23 89:22 90:19 91:15 92:10,18,25 93:8 95:23 96:3</p> <p>areas 81:20</p> <p>argue 54:9</p> <p>arguing 104:2</p> <p>argument 37:14 112:6,7</p>	<p>arranged 108:11 109:18</p> <p>arrow 87:20</p> <p>asked 16:24 43:3 55:14,15 55:23 58:13,25 60:17 66:25 67:7,11,19,20 67:21 68:3 73:15 90:22 94:8,12,20,21 103:18</p> <p>asking 16:20 44:1 52:11 93:6 101:6 107:15 109:9</p> <p>assembling 12:23</p> <p>assertion 23:16</p> <p>assign 15:2 16:5 46:7</p> <p>assigned 28:25 29:7</p> <p>assignment 11:24,25 12:3 12:17,19,20 13:23 17:8 29:2,7,9 42:11 42:22,23 43:1 43:2 44:18 47:5,7,9,11 101:21</p> <p>associated 18:11</p>	<p>assume 24:11</p> <p>assuming 24:19 82:16 109:22</p> <p>assurances 14:9 54:16 55:10</p> <p>assure 53:15</p> <p>attach 101:25</p> <p>attached 36:16 37:2 50:3 103:1</p> <p>attempted 16:19</p> <p>attempting 44:20</p> <p>attention 13:2 87:13</p> <p>attorney 115:14 116:10</p> <p>attribute 92:10</p> <p>attributed 61:16 88:8</p> <p>audio 115:8 116:3</p> <p>audrey 116:2 116:17</p> <p>august 19:6 32:12,12,14 38:18 98:24 102:20 103:4,6 103:9 104:1,15</p> <p>automatically 12:5</p> <p>available 12:19 16:15 111:24</p>	<p>avenue 2:5</p> <p>aware 37:8 58:14,15 70:10</p> <p>axis 84:21,22</p> <hr/> <p style="text-align: center;">b</p> <hr/> <p>b 4:1,7 5:12 35:16,20,22,22 35:23 76:5,5,6 76:15 77:25 78:1,6 79:10 83:12,14,25 84:3,9,11,16 85:5 87:7</p> <p>back 20:10 24:4 25:16 29:22 30:6 31:7 44:24 45:1 46:1 49:11 54:14 62:9 65:9 70:15 74:18,22 75:6 90:18 91:23</p> <p>bad 32:1</p> <p>bankruptcy 13:2,6 67:20</p> <p>barrels 16:21 17:9</p> <p>base 56:10</p> <p>based 14:8 43:7 44:10 48:21 61:13 62:3 76:12 92:7</p> <p>basin 24:24</p>
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[basis - case]

<p>basis 62:20 84:21</p> <p>bear 31:6 86:12</p> <p>becoming 101:24</p> <p>beginning 102:18</p> <p>behalf 2:2,10</p> <p>beholden 15:13</p> <p>belief 17:17 56:11</p> <p>believe 10:21 22:6,9 27:18 28:22 29:24 30:2 31:5 39:5 43:16 48:23 49:3 50:9 52:22 56:9 62:14 63:4 67:22 71:18 72:3,8 73:1 80:24 82:3 83:18,19 89:7 89:19 103:4,6 106:2</p> <p>believed 83:1</p> <p>believes 83:5</p> <p>beneficial 22:21</p> <p>best 19:15 42:15 63:10 69:17 86:4 89:11 110:10 115:10 116:6</p>	<p>better 11:7 40:12 93:10 95:8,23</p> <p>big 81:24 110:23</p> <p>bigger 31:13</p> <p>biggest 27:21</p> <p>bit 80:6 81:2 87:21</p> <p>black 85:1</p> <p>blm 9:1,24 10:1 10:16,20 56:15 56:19,22 57:6 67:1,7,11 70:13 71:4,7 72:24 73:11</p> <p>blocks 71:23</p> <p>blue 69:10,12</p> <p>bonzo 78:11,14 78:23 79:15 81:17 94:1,19 95:5</p> <p>bore 73:25</p> <p>borne 108:25</p> <p>boundary 52:4</p> <p>boy 5:12 7:24</p> <p>brand 72:4,5,6 72:7,15,15</p> <p>break 65:9 74:15</p> <p>breaking 68:10</p> <p>brief 26:22 111:3</p> <p>bring 14:20</p>	<p>brought 13:2</p> <p>brown 3:7 5:10 5:22 11:11,12 63:21 64:1,8 65:24 68:14 74:16,24,25 75:2,6,12,14,15 75:19,25 76:3 76:7,11,23 77:2,6,9,22 78:2,8,15,21,25 79:5,11,16,24 80:4,13 81:1 81:14 82:6,13 83:3,7,16,19 84:1,17 85:8 85:12,15,21,24 86:19,23,25 87:10 88:3,11 88:14 89:9,13 89:17,21 90:3 90:10,11,16,25 91:3,10,14,18 91:21 92:3,9 92:15,23 93:1 93:5,11,13,17 93:20,24 94:3 95:1,6,9,12,14 95:25 96:10,20</p> <p>building 10:11 10:14 53:10</p> <p>bullet 41:22</p> <p>burden 86:13 87:23</p>	<p>burdened 87:22</p> <p>bye 113:25 114:1,1</p> <hr/> <p style="text-align: center;">c</p> <hr/> <p>c 2:1 4:5 5:1 7:20 8:20,25 35:18 36:20,24 37:1 38:19 50:11 51:18 62:14 73:10 103:1 104:17 104:22</p> <p>calculated 58:12</p> <p>calculation 76:21</p> <p>calendar 109:11</p> <p>call 5:15 41:21 74:16,23 88:20 100:4,5</p> <p>called 1:6 54:6 81:24</p> <p>calling 38:24 86:12 87:14</p> <p>canceled 50:24</p> <p>capacity 27:9</p> <p>capitally 77:18 77:20,22 82:17</p> <p>capture 75:4</p> <p>case 1:9 4:3 5:5 6:6 7:1 39:18 76:2 77:8 96:21 102:3</p>
--	---	--	--

[caused - confidence]

<p>caused 53:24 54:7,10 72:9</p> <p>cd 7:4 15:5 17:2,3,7 47:1</p> <p>certain 53:2</p> <p>certainly 39:23 110:11</p> <p>certificate 115:1 116:1</p> <p>certify 115:4 116:2</p> <p>chain 35:6 98:21 101:11</p> <p>chains 99:2</p> <p>chakalian 1:15</p> <p>challenge 67:17</p> <p>change 70:9 71:2,11</p> <p>chart 84:17 85:23 86:3 88:15,19</p> <p>check 71:15 98:12 108:2</p> <p>chief 5:5 96:21</p> <p>choice 65:6</p> <p>choose 43:9 44:13 108:23</p> <p>chosen 99:1</p> <p>chron 103:5</p> <p>chronology 39:3,21</p> <p>cite 106:20 107:11 110:1</p> <p>citing 107:7,8</p>	<p>claim 89:3</p> <p>claimed 11:17</p> <p>claims 12:23</p> <p>clarify 43:1 73:7,16 96:8</p> <p>clay 30:24</p> <p>clean 104:16</p> <p>clear 13:5 40:17 42:12 87:1</p> <p>client 64:16,19 64:20 108:25 110:10</p> <p>clients 112:17</p> <p>closer 88:19 94:4</p> <p>closing 109:6 109:10 110:5 111:3 112:6,7</p> <p>closings 105:17 105:24 106:3,8 109:25</p> <p>co2 50:3</p> <p>com 50:15</p> <p>come 65:9 81:6 82:16 90:18</p> <p>comes 36:25 75:10 105:7</p> <p>comfortable 112:11,12,13</p> <p>comm 56:8 57:1,6,11 58:15</p> <p>comments 24:2</p>	<p>commercial 24:16 28:9</p> <p>common 32:25 86:2 87:2</p> <p>communicated 53:9</p> <p>communication 36:10 38:17 41:9 99:15,19 100:5,10 102:17 103:25 104:7</p> <p>communicati... 31:3 32:7,11 34:6,10,19 36:9 38:1 39:10,15,22 40:7,18 98:24 100:14 103:13 104:14</p> <p>communitiza... 58:12</p> <p>companies 13:24</p> <p>comparable 87:17</p> <p>compare 87:9</p> <p>compared 77:18</p> <p>comparison 84:18</p> <p>competing 34:13,14</p> <p>complete 17:18 18:6 37:9,16</p>	<p>100:17</p> <p>completed 50:12 105:4</p> <p>completeness 99:13,18 100:12</p> <p>completing 51:15</p> <p>completion 37:9</p> <p>comprehensive 15:22</p> <p>compulsory 7:8 15:13 17:22 26:13,21 27:1 27:6,24 28:5,7 28:8 47:25 68:25</p> <p>computer 20:10 101:1</p> <p>concede 58:24</p> <p>concern 53:20 54:7 82:6</p> <p>conclude 96:21</p> <p>concluded 5:5 114:3</p> <p>conclusions 110:1 111:4</p> <p>conditions 12:1 12:4</p> <p>confer 64:16,20</p> <p>conference 111:1</p> <p>confidence 17:20 18:13</p>
--	--	---	---

[confidence - course]

<p>63:17 86:20 confident 18:15 confidential 54:25 confirm 97:1 102:2 confirmed 53:7 confirming 97:22 conform 51:18 confused 36:18 70:7,24 71:25 72:13 confusion 37:5 70:21 connected 87:20 conservation 1:3,6 2:20,22 consider 35:10 46:19 99:17 considerably 77:16 81:21 86:13 88:21 consideration 34:12 76:12 112:22 considered 34:7 106:24 considering 1:8 34:7,13,14 83:21 constant 88:16 contact 98:9 105:19 107:23</p>	<p>111:13 contacted 56:19,22 105:20 contacting 30:9 contacts 39:4 39:10,21 contains 33:23 contents 113:8 contest 53:25 contested 5:4 110:21,25 contesting 54:4 continue 14:10 41:12 continuing 5:3 35:1 continuous 64:3 contract 53:13 contracted 10:13 contrary 61:20 contrast 81:15 contributed 71:24 contributing 91:6 control 64:4 92:17 conversation 36:5 43:7 44:11 72:8 100:13</p>	<p>conversations 54:22 55:17,18 67:5 98:22 100:1 cooperative 67:17 coordinate 72:23 copy 21:6 48:2 48:4 core 79:2,4,5 79:10 80:14 81:19 88:19 93:19,23 94:2 94:4,4,6,7,19 94:21,22 correct 9:4,5 10:3,6 13:11 22:7 23:9 24:16 27:3 28:16,17,21 29:6,23 30:16 30:17,20,21 40:12,15 42:3 45:7,8,11 46:11,12,17 47:5,9,16,23 50:8,9,12,16,18 50:25 51:3 54:4,5,8 60:14 61:17 62:23,24 63:3 64:8,9,12 72:20 73:17,18 76:7 78:1,2,21 79:16,24 83:3</p>	<p>83:6,18 84:1 85:7,8,12,21 100:2 108:3,6 corrected 113:7 correction 76:21 corrections 6:13 76:9 correctly 47:3 correlative 19:16,23 89:12 89:15,20 cost 15:7,8 76:17 84:18 85:10,19 86:17 87:16,17 88:10 108:24,24 costly 86:11 costs 18:11 76:13,16 77:15 82:16,22 84:20 84:24 85:6 86:1,8,13,21 87:3,9,23 89:8 89:25 90:1 93:9 95:10 counsel 25:17 115:11,14 116:7,10 county 12:8,14 couple 38:24 39:8 course 36:13 107:13</p>
---	---	---	---

[court - direct]

<p>court 67:20 75:4 105:19,21 cover 113:1,6 create 90:15 crest 93:19,23 93:24 criteria 106:4 critical 55:21 cross 20:14 25:5 33:20,21 41:13 55:25 62:7 64:19 66:18,20 74:8 90:8 95:19 cumulative 38:21 81:21 104:6 curious 70:6,15 current 92:4 currently 24:15 57:14 cx 3:2</p>	<p>days 10:11,12 53:10 85:11 109:16 110:16 111:2,12 112:1 112:11,12,13 112:19 de 2:13 deadline 111:19 deal 15:4 16:7 43:8 44:13,18 dealing 25:24 december 70:8 70:8 72:1 98:25 101:21 decided 112:20 decision 55:21 111:14 decline 42:7,20 dedicated 57:16,21 62:14 definitely 107:19 degrade 88:24 degrading 89:23 delaware 24:24 delay 53:24 54:7,10 delivered 32:12 dense 19:20 77:10 89:21 denser 82:1 density 79:13 80:16 92:20</p>	<p>denying 98:22 department 1:2 depending 17:13 depends 16:22 16:22 17:1 59:23 depletion 80:20 82:7 description 4:2 design 92:19 96:6 desire 17:18 96:2 104:15 despite 7:8 detail 55:17 91:23 101:24 details 101:18 determine 42:15 57:18 91:20 determined 57:23 develop 13:24 15:14 19:11 30:10 63:20,25 64:7,11 90:18 90:18 developed 79:23 developing 83:2 93:8 95:22 development 4:7 7:4 13:15</p>	<p>13:19 14:22,25 19:15,19 30:3 30:19 36:1 42:8,10,20 44:4 48:13 51:17 69:3 77:10 78:20,24 79:7,25 80:19 81:2,24 82:11 83:10,20,24 84:24 86:18 87:8 89:11,22 92:18,19 95:24 96:3,6 developments 76:18 77:13,14 78:11,16 79:18 81:5,17 difference 89:5 different 11:3 16:8 26:8,11 28:9 47:4 48:15 85:5,10 86:7,8 87:24 91:15 93:7 94:13 100:22 difficult 91:22 95:25 digital 115:8 116:3 direct 6:2,5,18 25:5 26:22 41:21 62:8 75:23 76:1,25</p>
d			
<p>d 3:1 5:1 dash 86:3 data 70:3 91:23 date 1:13 28:22 31:5 70:25 101:6 111:24 112:18,19 dated 73:10 dates 104:7 day 1:12 71:6 72:8 110:20 113:24</p>			

[directed - energy]

<p>directed 67:24 direction 78:23 directly 16:20 24:18 80:23 98:19 disagree 62:1 82:15 discuss 34:3 discussed 23:17 45:10 discussing 7:4 16:6 42:22 70:4 101:20 discussion 36:17 67:1 68:16 69:11 discussions 14:14 53:17 68:10,25 87:18 dispute 21:25 23:7 29:18 39:24 42:17,19 47:3 48:16 93:5 disputed 35:4 disputes 11:19 disputing 29:20 34:18,20 38:16 38:17 47:13 104:8 distance 78:22 division 1:3,7 2:20,22 22:23 49:11 55:21 70:20 71:22</p>	<p>97:23 99:15 106:4 108:22 division's 25:12 doctor's 65:4 65:11 doctors 65:6 document 21:7 documents 6:8 12:23 40:10 76:4 90:13 doing 26:5,19 60:24 dollar 84:20,24 dominant 92:17 dots 79:19 double 98:11 doubting 62:5 draft 107:6 draw 87:12 drill 7:8 15:6 15:10 16:4,10 17:23 20:3 43:10 44:15,20 44:22 48:24 49:4,22 50:2 54:3,13 63:14 68:18 69:17 73:16 drilled 91:4 95:22 drilling 10:8 12:2 15:8,9 17:21 18:11 54:12 63:18</p>	<p>73:23 84:20 drills 82:4 dropped 71:8 dropping 70:9 due 15:7 93:7,7 108:21 109:6 109:10,21 duly 115:5 dx 3:2</p> <hr/> <p style="text-align: center;">e</p> <hr/> <p>e 2:1,1 3:1 4:1 5:1,1 earlier 22:4,5 49:21 71:20 81:2 early 87:15,16 96:4 easier 8:1 21:10 east 81:7 easy 113:8 economic 17:14 90:15,23 economics 69:19 95:8 effect 35:13 efficient 77:18 82:17 effort 48:25 eight 77:11 80:5 81:2 either 46:8 49:14 elements 96:6 email 32:13 35:6 36:8 38:1</p>	<p>41:18 43:14 44:25 98:20 99:2 100:17,22 101:10,11 102:13 103:1,4 103:6,13 108:3 108:4 111:22 112:24 emailed 45:6 102:1 emails 4:9 18:10 33:3,6,6 33:23 35:4 36:18 37:2,18 38:4,4,5,9 39:4 39:6 49:11 98:5,13,14,18 98:25,25 99:4 100:6 102:17 103:9 emerging 30:24 employed 115:11,14 116:8,11 employee 115:13 116:10 energy 1:2 2:2 2:10 4:5 13:3 30:10 50:12 51:6 52:18 53:1,6 54:15 54:15,22 55:10 55:19 56:7,19 57:16,18 59:21 81:5,23</p>
---	---	--	--

[energy's - exhibit]

<p>energy's 8:19 engineer 61:1 77:5 engineer's 88:7 english 8:22 11:19 13:14 15:22 16:18 22:10,13 23:7 39:3 100:13 english's 7:12 10:24 11:15 14:5 15:16 18:18 20:16 21:13 22:5 23:12 31:8 34:19 45:16 ensure 14:21 enter 44:18 entirety 28:23 46:22 59:22 61:14 entitled 22:1 23:8 25:9 enunciate 11:8 error 24:22 es 3:2 115:4 esquire 2:3,11 essence 67:15 essentially 68:8 71:8 established 79:6,17 estimate 86:17 estimated 76:17</p>	<p>estimates 85:19 evaluate 77:17 86:18 evaluation 17:14 evaluations 93:2 evd 4:2 evidence 8:10 8:13 37:10 84:12 89:5 105:3,7 evidentiary 96:24 105:5 exact 28:1 exactly 9:14 examination 6:2 20:14 25:5 33:21 41:13 55:25 62:7 66:18,20 73:8 75:23 90:8 95:19 examine 64:19 examiner 1:15 2:21 5:2,16,23 7:5,24 8:5,9 18:19,21,25 20:7,9 21:5,9 21:14 22:17 23:4 25:6,13 25:15 26:1,4 26:10,15 34:3 34:15 35:8,15 35:21,24 36:2</p>	<p>36:13 37:6,20 38:3,11,23 39:7,13,19 40:1,9,23 41:4 41:6,10 49:8 55:2,4,13,20 56:3 58:18,22 60:19,23 61:7 61:23 62:4,11 64:15,18,25 65:13,16,19,25 66:3,6,8,12,15 73:3 74:7,10 74:13,18,21 75:2,8,11,13,16 75:20 84:4,8 90:6 94:10,15 94:23 95:15 96:13,18,23 97:5,9,14,16,20 97:25 98:2,7 98:16 99:10,23 100:24 101:5 101:12,15 102:4,7,14,19 102:22 103:7 103:10,15,18 103:22 104:4 104:10,19 105:11,15,22 106:6,11,16,19 106:23 107:1,4 107:13,16,21 108:8,14,20 109:4,7,17</p>	<p>110:3,17 111:5 111:9,16 112:23 113:11 113:13,18,21 example 86:10 excellent 60:25 105:16 except 5:6 11:11 97:11 exception 5:11 97:3 excluded 99:11 excuse 37:18 102:7 execute 18:15 49:1 51:12 53:5,7,19,22 executed 48:19 51:6 executing 45:14 execution 51:9 exhibit 4:4,6,8 5:6 6:9,22 7:17 7:18,21,22 8:2 8:6,7,9,12,17 9:10 10:25 23:25 24:5 25:8 30:25 33:3,6,7,11,15 33:19,20,20,22 34:1,4,19 35:13,16,17 36:6,16,18,19 36:21,22,24</p>
--	--	--	---

<p>37:7,15 38:15 38:15,25 39:5 39:5,15,21 41:3,16 45:1 45:17,20,22,24 46:2,3 49:18 50:7 62:10 67:22 69:5,11 69:13 70:2 71:18 76:5,13 76:15 77:4 78:6,14 79:10 83:11,12,14,25 84:3,6,11,16,16 85:5 87:7 97:4 97:13,15,23 98:6,13 99:4,5 99:11,17,18 100:7,9,18,21 101:9,25 102:21 103:3 104:17,21,23 105:2 113:1 exhibits 5:6,11 6:6,13 21:18 21:21 31:5 33:19 35:6 40:3 41:2 68:14 76:1,9 77:25,25 78:4 84:10 85:20 87:19 97:2 98:18 99:8,9 100:4,22 104:24</p>	<p>existing 50:18 50:19 58:15 77:12,13 expect 56:25 expected 88:24 expedite 108:17,24,24 110:7 expedited 107:18 108:11 108:23 109:3 109:18,23 111:15,22 112:2 expeditious 96:3 expense 15:7 expensive 19:18 experience 25:8 62:18 expert 5:9,10 25:4,11 26:6 expirations 54:8 expire 18:3 explain 11:21 103:24 explaining 113:7 explore 26:20 explored 69:23 express 18:13 expressed 18:8 53:20 54:10</p>	<p>84:20 87:24 expressly 62:2 extended 82:14 extension 67:7 extra 106:5 exxon 12:6 32:6 46:14,23 exxon's 46:1,3 exxonmobil 7:7 13:4 27:10 42:8,10,13,21 46:14 exxonmobil's 16:19,21</p> <p style="text-align: center;">f</p> <p>facilities 67:2 87:23 fact 13:14 27:21 33:20 37:9 101:25 106:20 111:4 factor 34:8 49:14 facts 22:21,22 107:7 fair 37:12 110:14 faith 14:8 34:8 34:12,20,23,25 40:19 familiar 24:12 30:5 fane 2:12 far 30:6 79:1</p>	<p>fashion 27:6 fe 1:17 2:6,14 february 1:13 5:3 14:13 15:23 16:18 17:17 18:5,9 19:10 23:18 24:2 27:18,18 35:2 41:18 43:5,7,13,17 44:2,12,16 45:3,10 46:7 47:14 48:4,12 51:12 54:11 72:3,19 73:11 83:1 87:16 fed 50:15 56:7 federal 28:15 57:6 59:9,14 60:2 feel 18:14,15 44:4 102:8 110:13 112:9 112:10 feet 52:19,20 57:2,2,7 59:5,9 61:11 63:3 72:18 82:21 90:1,14,22 felt 99:14 field 25:4 fifth 60:1 62:22 file 12:13 111:3 filed 8:25 12:8 12:10,18 31:5</p>
--	---	--	--

[filed - going]

<p>34:7,11 47:24 filing 51:13 53:8 final 61:5 111:14 113:5 finally 87:2 88:6 financially 115:15 116:11 find 49:10 55:8 55:9 finder 37:9 finding 106:20 findings 107:7 110:1 111:4 fine 11:12 40:5 40:22 finished 65:22 first 5:15 27:15 32:10 39:1 50:23 51:1,22 52:10 70:14 71:18 72:18 99:12 101:10 102:12 103:4,6 112:6,8 fit 86:4 five 48:15 49:6 60:5,12 flexibility 112:16 fluid 88:9 89:4 focused 106:3 follow 18:10 53:15 55:10</p>	<p>followed 38:19 following 54:16 54:20 follows 79:17 foot 84:21,25 88:5 footages 52:3 force 100:6 112:9 foregoing 115:3,4 116:4 form 22:16,19 27:5 49:5 55:14 60:17 104:22 formation 88:16 forth 15:20,21 25:17 31:7 49:12 forward 14:20 14:25 17:20 51:15 53:2 63:17 73:23 found 19:9 foundation 61:18 four 71:23 85:5 85:9 fracturing 88:25 franklin 116:2 116:17 free 44:4</p>	<p>frequently 93:1 freya 2:19 friday 1:13 85:16 108:18 108:19 front 92:5 101:1 full 58:2 fully 92:1,3 112:17 further 20:6 49:13 82:21 88:23 90:4 95:13,24 115:13 116:9 future 68:24</p> <hr/> <p style="text-align: center;">g</p> <hr/> <p>g 5:1 garcia 2:21 3:6 3:10 35:9 36:4 36:11,14,15,23 37:4 38:13 40:17 55:24 60:25 65:2 66:17,19,21,22 66:24 67:6,18 68:1,7 69:4,9 69:25 70:6,19 71:1,13,17,22 72:4,11,14,17 72:21 73:1,15 74:11,12 95:17 95:18,20,21 96:8,12 105:23 105:25 106:2,9</p>	<p>107:2,5,6,14 108:11 111:23 112:7 113:9,23 generally 79:11 80:1,4 82:13 geologist 77:5 geology 5:10 gerald 1:18 115:2,22 getting 56:7 61:2 72:23 79:22 90:12 101:23 102:8 give 5:19 34:8 64:20 91:24 107:24 112:16 given 43:5 44:3 giving 37:12 go 5:25 9:10 11:2,3 31:7 36:14 45:1,25 46:15 49:13 52:8,13 56:3 61:7 62:11 65:2 66:9 71:7 71:16 73:19 75:20 78:3 84:15 91:23 97:20 98:16 103:5 110:24 113:14 goes 99:9 100:19 101:10 going 9:10 17:22 18:22</p>
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[going - hearing]

<p>20:25 22:22 24:4 25:19,21 29:22 30:5 31:7 35:9 40:19 41:1 48:19,23 49:4 49:9,14,15 53:1 54:14 55:5 56:1 61:12 63:17 68:2 70:12 74:23 78:4 98:5,23 101:9 104:13,20,21 108:16 110:6 111:18,19 112:14 good 5:2 14:8 32:5 34:8,12 34:20,23,25 40:18,24 52:9 66:6,22,23 74:14 75:13,14 75:25 90:10,11 105:16 106:7,9 106:12 113:24 granted 11:24 13:23 greater 76:17 green 79:19 gregory 1:15 36:12 107:3 guarantee 48:18</p>	<p>guess 36:17 40:7 56:15 67:8,18 68:9 69:9 70:11,15 70:21,24 71:25 72:21 92:21 93:5 95:23 96:8 guys 11:5 68:8 68:13 70:2 71:17 107:6 guys's 72:18</p> <hr/> <p style="text-align: center;">h</p> <hr/> <p>h 4:1 halen 7:4 14:7 15:3,5 16:8 17:2,3,7,18 18:7 42:8,21 44:4 47:1 78:10,17,20,24 79:1,21,23 80:9,24 81:8 81:21 82:5 95:4 half 7:3,14 9:17 9:17,18 46:9 handling 67:1 hands 5:17 happen 18:1 82:4 110:6 happened 17:25 47:14 101:22 104:8 happy 26:20 49:7</p>	<p>hard 6:16 111:19 hardy 2:4 hardymclean.... 2:7 haste 33:17 head 59:16 79:23 hear 6:16,17 13:6,9 37:14 75:18 80:23 107:5 heard 5:23 11:15 14:4 55:23 68:7 87:7 hearing 1:5,11 1:15 5:2,4,7,16 5:23 7:5,24 8:5 8:9 11:5 18:19 18:21,25 20:9 21:5,9,14 22:17 23:4 25:6,13,15 26:1,4,10,15 34:3,15 35:8 35:15,21,24 36:2,13 37:6 37:20 38:3,7 38:11,23 39:7 39:13,19 40:1 40:9,23 41:4,6 41:10 49:8 55:2,4,13,20 56:3 58:18,22</p>	<p>60:19,23 61:7 61:23 62:4,11 64:18,25 65:13 65:16,19,25 66:3,6,8,12,15 73:3 74:7,10 74:13,18,21 75:2,8,11,13,16 75:20 84:4,8 85:16,20 90:6 94:10,15,23 95:15 96:13,18 96:23 97:5,9 97:14,16,20,25 98:2,7,16 99:10,23 100:24 101:5 101:12,15 102:4,7,14,19 102:22 103:7 103:10,15,18 103:22 104:4 104:10,19 105:11,15,22 106:6,11,16,19 106:23 107:1,4 107:13,16,21 108:8,14,20 109:4,7,17 110:3,17,25 111:5,9,16 112:2,23 113:11,13,18 113:21</p>
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[hearings - interest]

<p>hearings 72:22 110:21</p> <p>held 14:1 30:13</p> <p>helpful 34:9 36:3 49:11,14 55:16 102:23 106:1</p> <p>hereto 115:15 116:11</p> <p>hey 37:11</p> <p>high 81:18</p> <p>higher 76:16 77:16 80:6,16 86:14 87:4 88:9,9,21 93:9 95:4,7,10,11</p> <p>highest 79:8,12 87:16</p> <p>highlighted 69:13</p> <p>hilcorp 80:24 81:1</p> <p>hold 15:16 21:2 25:13,15 26:2 32:2 45:22 49:9</p> <p>holder 11:24 12:6,21</p> <p>holdings 31:13</p> <p>hole 9:12,23 10:2,5,15,19 35:19</p> <p>honestly 104:9</p> <p>hope 83:6,18</p>	<p>hoping 109:20</p> <p>horizontal 7:8 15:7,8,9 16:4 16:10 17:21 18:12,16 20:3 43:11 44:15,20 45:14 48:24 53:22 54:12 63:18 68:4 69:18 73:17,23 74:1 77:13 79:18</p> <p>hours 65:9 110:2</p> <p>huh 26:3</p> <p>hundred 11:20 11:22 22:6,14</p> <p>hurt 11:8</p> <p>hypothetical 61:25 91:11</p> <hr/> <p style="text-align: center;">i</p> <hr/> <p>idea 52:9 108:16</p> <p>identical 69:6</p> <p>identification 7:23 34:2 83:15</p> <p>identified 33:19</p> <p>identify 79:9 107:8</p> <p>imaged 71:3</p> <p>immediately 19:11 38:9</p>	<p>important 74:3 80:11</p> <p>impression 17:22</p> <p>inadvertent 100:2</p> <p>inadvertently 100:1</p> <p>include 33:1,2 33:5,10,25 35:5 51:2,4 57:11 63:20,25 64:7 72:10 100:5 102:25 113:1</p> <p>included 24:1 28:15 36:10 37:18 39:22 43:2 47:1 59:21 98:24,25 101:10</p> <p>includes 27:10 27:20 37:17 39:6 102:21</p> <p>including 33:24 33:24 40:6 59:18</p> <p>incomplete 37:23</p> <p>independent 19:3</p> <p>indicate 17:8</p> <p>indicated 7:6 14:19,24 22:13 67:8,12</p>	<p>inefficient 77:21,22</p> <p>info 2:7</p> <p>information 35:11 54:25 55:7 70:20,21 96:5 108:4</p> <p>initial 34:24 58:1 86:11 87:13,18 96:4</p> <p>initially 47:6</p> <p>initiate 13:19</p> <p>initiated 56:7</p> <p>instances 80:6</p> <p>intend 7:7 19:10 20:3 45:14 54:12</p> <p>intending 51:14 54:20</p> <p>intends 52:18 52:19</p> <p>intent 90:17</p> <p>intentional 39:12</p> <p>interest 11:20 17:10 22:1,7 22:11,14 23:9 23:13 24:25 27:9,19,22 30:1 42:9,21 42:24 46:8,9 63:11 73:24 77:19 102:2 104:9</p>
--	--	---	---

[interested - letter]

<p>interested 17:9 17:12 115:15 116:12 interests 16:20 42:16 internally 42:15 introduce 99:2 100:18 102:12 introduced 97:3 introduction 61:19 involve 54:24 involved 28:4 ipad 101:2 ish 72:18 issue 13:10,14 39:24 56:25 100:13 it'd 21:10 it'll 112:18 item 107:2</p>	<p>77:19 july 13:10 24:19,20 justified 89:8 93:10 95:11 justifies 88:9</p>	<p>100:14,16 101:19 104:22 105:18 106:3,4 107:12 108:10 110:6,8,17,18 110:20,25 111:18,24 112:8 knowing 111:20 knowledge 26:21 67:3 115:10 116:6 knows 21:9</p>	<p>lead 95:8 lease 9:13 10:5 10:9 13:10,19 13:25,25 18:1 20:4 28:15 30:1,4,11,13,19 51:15,24,25 52:4,24 54:8 58:6 59:20 60:2 63:8,10 63:12,20,25 64:7,11 67:2,7 68:20 69:6,10 69:21,24 71:11 73:22 82:11 83:6,18 leasehold 16:5 19:4 29:19 64:3,3 74:1,3 90:17 leases 14:21 112:3 leave 39:9,14 67:20,21 leaving 109:15 left 17:16,21 32:6 96:24 legal 2:19 length 82:20 84:22 88:2 lengthen 73:24 lessee 63:11 lessor 63:11 letter 113:1,6</p>
	k		
	<p>keep 26:22 36:5 80:7,11 keeping 100:7 key 26:19 kind 67:12 68:1 79:19 80:19 109:24 know 8:24 9:6 10:18 11:8 16:13 19:7 27:25 37:22 46:21 48:3 49:9 51:16,19 54:24 55:24 56:6 57:8,10 57:19 60:24 61:1,19 65:5 66:4 67:12,14 67:16 68:19,24 69:4,16,17 72:22 73:24 80:14 81:16 82:7 83:12 86:17 88:20 92:6,12,16 95:4,22,23 98:8,18,22 99:1,3 100:12</p>	l	
		<p>lack 40:12 51:9 land 5:9 24:16 26:6,6,8 59:14 59:20 71:8 87:2 landman 6:23 104:6 large 59:19 larger 29:1 lateral 59:4,9 59:14 61:15 68:15 82:20 84:21,21,25 88:2,5 89:24 89:25 91:6 laterals 77:11 82:14 latest 76:12 law 111:4</p>	
j			
<p>jaclyn 2:3 january 101:11 101:11,12 102:1,10 joa 45:7 47:23 48:2,4 job 1:19 john 2:21 joint 24:25 27:9,19,22 46:19 47:16</p>			

[letting - mack's]

<p>letting 111:23 lfe 21:25 22:6 22:13 23:7 37:18 49:4 63:14,17 103:3 light 48:24 limit 106:8 lincoln 2:5 line 21:24 24:18 46:14 52:15,21 82:22 86:3,4,6 87:10 90:1 lines 79:18 list 32:7 39:10 98:9 listened 34:22 little 6:16 11:7 31:12 70:7 101:24 llc 2:4 loading 88:9 89:4 local 80:6 located 9:12 51:22,23 59:14 68:20 location 1:16 9:12,15,23 10:2,11,15,15 10:19 35:19 53:10 69:21 73:22 locations 10:5 68:20</p>	<p>logs 100:4,5 long 21:6 27:4 60:24 65:22 66:4 longer 12:4 17:1 42:24 88:4 longfellow 2:10 4:9 5:4,6 7:2 8:1 12:22 13:7 13:11 14:3,15 14:17 16:4,16 16:24 17:12,20 17:22 18:8,12 19:6,7,10 20:2 28:11 30:13,15 32:13 34:1 36:9,23 38:8 38:18 42:2,7 42:14,19 43:8 43:10 44:3,12 44:14,19 45:6 45:13 46:6,8 46:15,25 47:3 48:14,22,23 53:20,24 54:1 54:3,10 64:11 67:8,12,15 69:1 72:8 76:16 77:9 78:11,16 81:10 81:16 82:4,15 83:2 85:6 86:21 87:14,23 88:1 89:8 96:5</p>	<p>97:3 101:19 102:1,2 105:2 106:18 109:2 113:16 longfellow's 5:5 6:22 7:1 10:19 12:24 14:9 15:11 17:18 18:6 19:15,17,21 23:15 34:20,24 38:16 42:16 45:17,20 46:23 48:13 55:12 69:5 76:12 77:4,8 82:20 85:2,20 86:5 87:9 88:4,7 89:11,14 94:1 94:19 105:1 look 8:16 9:9 21:13 28:1 38:4 51:21 59:6 91:14 101:9 102:21 112:24,25 113:9 looked 69:5 87:6 looking 27:13 36:23 45:23 62:15 70:24 99:22 109:10 111:11</p>	<p>looks 52:14 70:10 95:24 loss 112:15 lot 11:3 14:4 65:6 loud 75:4 loudly 6:16 75:17 lower 81:21 lowest 81:22</p> <hr/> <p style="text-align: center;">m</p> <hr/> <p>ma'am 20:24 23:20 24:13 43:22 mack 4:5 7:13 8:19,24 10:4,7 13:3 19:12 30:10 35:25 50:12 51:6,11 51:13,16 52:18 52:25 53:6,15 53:18,18 54:14 54:15,22 55:10 55:19 56:6,12 56:18,19 57:16 57:17 58:3 59:21 63:9 68:18,19 69:15 69:20 70:3,7 72:7,9,23 73:20 83:5,10 87:7,18 88:1 mack's 35:18 51:13 87:8 88:3</p>
---	--	---	---

[made - mclean]

<p>made 12:8 48:22 99:20 main 95:23 maintain 12:2 15:11 20:4 52:24 63:12 74:1 maintained 48:20 maintaining 14:21 74:2 majority 79:6 make 6:15,17 7:25 31:12 42:12 55:21 58:19,23 76:21 89:3 93:2 99:7 108:2 111:13 making 69:2 89:4 manager 24:16 manner 43:9 44:14 map 36:1 78:9 79:10 march 108:20 109:10,12,14 109:21,22 110:22 marked 6:9 7:17,22 8:17 34:1 76:5 77:25 78:6 83:14</p>	<p>marley 78:11 78:14,23 79:15 81:17 math 59:16 60:21,25 61:1 62:24 71:20 matter 1:5 6:19 22:22 26:17 42:14 49:16 77:1 104:9 matters 5:9 25:24 26:6,6,8 28:5 maxwell 95:21 mckee 3:3 5:9 5:15,21 6:4,7 6:11,14,20,24 7:2,6,15 8:19 8:23 9:2,5,8,13 9:16,20,25 10:4,10,17,21 11:1,5,9,23 12:10,16,25 13:8,12,17,21 14:11,15 15:19 15:24 16:2,23 17:19 18:2,8 19:5,17,24 20:2,24 21:3,8 21:12,15,18,22 22:3,9 23:10 23:15,20,23 24:1,12,13,17 24:21 26:25 27:3,8,17 28:6</p>	<p>28:17,22 29:1 29:6,12,17,24 30:2,5,12,17,21 31:4,10,15,18 31:21,25 32:3 32:9,15,18,21 32:23 33:4,8 33:12,25 39:3 39:8,9,11,16 40:12 41:19,24 42:2,6,19 43:12,18,22,25 44:7,16 45:4,8 45:12 46:12,17 46:21 47:6,10 47:13,17,20,24 48:3,9,11,17 49:2,21,24 50:4,9,13,16,19 50:22,25 51:3 51:7,11,19,23 52:1,5,14,22 53:3,8,12,17 54:1,5,9,18 56:9,12,17,20 56:24 57:3,8 57:14,17,22 58:1,5,9 59:6 59:11,15,22 60:3,7,10,14 62:16,17,20,24 63:4,7,16,22 64:2,9,13,24 66:2,18,22,23 67:3,10,21</p>	<p>68:6,17 69:8 69:14 70:5,17 70:23 71:9,15 71:21 72:2,6 72:12,15,20,25 73:12,13,18,21 74:5 87:8 101:18 mckee's 24:6 25:22 36:10 97:12 98:19 mclean 2:3,4 3:4,8 5:13,14 5:25 6:1,3,4,8 6:12,15,21,25 7:10,11,16 8:3 8:5,7,14,15,16 8:21,24 9:3,6,9 9:14,19,22 10:1,7,14,18,22 11:2,7,10,13,14 12:7,13,22 13:5,9,13,18 14:2,12 15:15 15:20,25 16:17 17:16,25 18:4 18:17,19,20,23 19:1,2,14,21,25 20:5,11,18,21 22:16 23:19 24:6 25:2,10 31:20,24 33:15 34:16,17 35:12 35:14,17,22,25 36:21 38:12,14</p>
--	--	---	--

[mclean - neglected]

39:20,23 41:2 41:3,5,8,11 45:17 46:1 49:5 52:8,10 54:23 58:13 60:17 61:18,25 65:11,14,15,18 65:20 66:1,4 73:5,6,9,10,14 73:19 74:2,6 74:17,23 75:1 75:6,10,21,22 75:24,25 76:4 76:8,20,24 77:3,7,20,24 78:3,13,18,22 79:3,9,14,22 80:1,10,22 81:12 82:3,10 82:24 83:4,9 83:17,23 84:2 84:13,14,15 85:4,9,13,18,22 86:16,20,24 87:6 88:1,6,13 89:7,10,14,18 90:3 94:8,14 96:15,17,22 97:1,8,15,19,21 97:22 98:1,15 98:17 99:21 100:8 101:4,8 101:14,17 102:4,5,6,11 103:24 104:2,5	104:12 105:13 105:14 106:15 107:10 108:10 108:19 109:12 109:24 110:9 110:13,15,19 111:23,25 112:12 113:10 113:19,25 mclean's 22:5 33:18 mean 9:19 15:12 16:22 24:20,25 36:20 37:21 39:23 40:5 55:6 61:5 65:20,23 68:13 71:1,13 77:20 79:3,5 85:18 91:25 103:14 108:17 109:25 110:4,15,16 112:5,8 meaning 76:17 meaningful 36:5 means 55:7 84:9 mechanisms 48:15 meeting 14:13 14:19 15:23 16:18 17:17 18:5,10 23:18 23:22 24:2	43:5,13,16,21 44:17 46:7,24 48:12 54:11 met 12:1,4 16:3 mexico 1:1 2:19 2:21 24:24 25:1,8,23,24 26:7,14,21 27:6,11,14,16 27:20,21 28:1 65:5 115:24 mile 63:20,25 64:7,13 68:11 68:11 77:11 miles 78:19 million 76:19 mind 80:7 minerals 1:2 59:10 minute 31:7 64:20 65:3 74:15 minutes 56:2 74:19 missed 39:12 mobil 46:14 moment 35:9 money 48:25 months 65:5 morning 5:2 6:5 8:1 66:22 66:23 75:13,14 75:25 90:10,11 move 14:24 17:20 49:15,17	61:3 63:17 73:23 79:25 80:17 84:2 105:18 moves 70:14 moving 51:14 72:17 multiple 85:25 86:25 mute 20:8
			n
			n 2:1 3:1 5:1 name 50:14 natural 1:2 88:25 nearby 30:22 30:23 necessarily 92:17 93:7 necessary 39:17 58:9 99:6 102:25 need 18:22 30:12 35:5 40:16 42:14 52:7 61:1 65:21,24 89:5 91:22 92:22 100:17 102:21 105:6 106:1 111:13 112:3 needed 30:7 needs 55:21 neglected 86:2

[negotiations - okay]

<p>negotiations 14:3,9 19:8 23:18 35:1 40:19 101:18 neither 115:11 116:7 never 26:25 30:18 new 1:1 2:19,21 24:24 25:1,8 25:23,24 26:6 26:13,21 27:6 27:11,14,15,20 27:21,25 43:8 44:3,13 49:15 65:5 72:5,7,16 115:24 newer 72:1 nm 1:17 2:6,14 non 82:19 noontime 65:7 normally 112:10 north 79:25 80:18 88:23 89:23 93:19,23 93:24 94:2,6 94:19,22 northern 94:7 northwest 79:1 notary 115:23 note 45:10 80:8 102:24 noted 81:16 88:18</p>	<p>notes 21:1 23:21 38:24 november 28:21 29:4 71:4,6 number 8:6 45:21 69:10 70:4 107:25 numbers 28:1 34:9 59:7,12 60:4 69:6</p> <hr/> <p style="text-align: center;">o</p> <hr/> <p>o 5:1 oath 75:3,17 object 25:11 objected 25:25 99:12 objection 8:2 22:16,18 25:2 26:18 33:16 34:24 49:5,10 54:23 58:13,25 60:17 61:18 62:6 83:12 84:5,6 94:8 objectives 16:19 obtaining 12:11 57:1 occur 42:10 occurred 39:25 43:7 44:11 occurring 34:21</p>	<p>occurs 92:19 ocd 72:24 ocd's 70:3 october 98:13 98:20 offend 11:10 offer 33:21 47:6,10,20 48:7,13 offered 23:25 25:7 36:21 45:6 47:4,5,8 47:22 48:7 55:11 97:3 officer 115:2 offices 14:16 offline 35:9 36:16 oh 6:1 7:24 18:23 21:11 31:17 36:13 37:1 43:15,18 43:20,25 45:19 45:20,23 52:9 52:14 58:21 60:7 62:4 65:19 70:23 72:25 94:18 99:23 103:3 106:9 111:9 oil 1:3,6 2:19 2:21 95:4,7 okay 7:20 8:3,9 9:22 11:2,2,6 11:14 15:15,17</p>	<p>15:17 17:16 18:25 19:14 20:21 21:3,4 21:17,20,22 23:2 26:2,15 26:23 27:12 29:21 31:10,21 32:1,3,5,21 34:15 36:2 37:4,4 38:11 39:7,13,19 40:1,1,21,23 41:12 43:22,25 44:1,7 45:25 49:17 50:14,17 52:5,9,14 55:13 56:3 58:22 59:17 60:23 61:9 62:21 65:25 66:3 67:18 68:1,6 69:4,25 70:19 72:4,11 72:17,21 74:6 74:17 78:4,5 80:22 84:8 85:4 97:8,18 98:1 99:23 100:24 101:6 101:12,15 102:14,14 103:3,15,17 104:4,10,20 105:4,11,15,22 106:6 109:4</p>
--	--	--	--

[okay - parts]

<p>112:23 113:18 omission 40:14 40:15 100:3 omit 39:4 104:17 omitted 40:20 100:1 once 24:9 111:21 ones 71:10 online 81:6 open 90:13 96:25 105:6 107:17 operator 91:17 91:20,21 92:7 92:11,14,18 93:4 operators 77:16 82:23 84:18 87:4,11 90:2 91:13 92:2,25 93:7 93:12,18,22 94:18 opinion 19:14 67:9 89:10 opportunity 13:24 opposed 48:12 opposition 40:6 47:25 optimal 4:7 83:20,23</p>	<p>optimally 90:18 option 43:5 47:23 53:23 63:13 67:8 69:15,17,20 73:25 options 16:14 47:4 49:1 63:7 order 7:9 15:1 15:13 16:3,14 34:8 43:4 44:19 110:9 ordinarily 59:18 63:1 original 9:7 29:8 50:5,6 originally 82:16 outcome 115:16 116:12 outliers 24:25 25:1 outright 47:9 47:10 outside 15:5 70:14 79:1 overage 76:22 overall 42:16 81:3,21 overly 89:21 overrule 26:18 55:22 overrun 76:18</p>	<p>oversight 32:23 33:1 overtly 77:10 owe 29:20 owed 12:5 13:4 own 14:13 15:14 44:23 64:3 68:13 owner 29:19 ownership 11:17 owns 11:19,21 28:14 oxy 11:25 ozy 76:14</p> <hr/> <p style="text-align: center;">p</p> <hr/> <p>p 2:1,1 5:1 50:15 p.m. 65:18 packets 11:3 113:1 pad 94:2,19 95:5 page 9:10 24:9 28:13 31:1,11 35:5 36:24 41:20 45:21 106:8 pages 98:21 103:3 paragraph 11:17 14:6 15:16,17,21 16:17 18:17 20:17,23 21:10</p>	<p>21:24 23:6 28:14,18 46:4 101:20 paragraphs 28:13 part 8:25 11:25 16:8 27:21 36:17 37:3,10 37:12 47:1 49:24 62:7 73:12 78:9 94:7,22 105:4 partial 46:9 participate 43:4 45:6 47:23 participating 27:5 particularly 89:22 parties 12:12 13:22 19:19,20 28:10 29:8,11 29:20 31:3 34:23 38:2,5 49:12 63:23 68:9 85:2 97:2 106:13 112:16 113:6 115:12 115:14 116:8 116:11 partner 42:9,22 42:24 parts 23:1</p>
---	--	--	--

[party - position]

<p>party 12:17,19 37:10,11 49:14 63:24 64:6,10</p> <p>paseo 2:13</p> <p>pass 90:5</p> <p>past 27:14</p> <p>pasty 81:24</p> <p>path 73:20</p> <p>paul 3:7 5:9 74:23</p> <p>paul's 17:14</p> <p>pay 109:2</p> <p>pays 108:22</p> <p>pdf 24:9 28:13 31:1,11 36:24 41:20 45:21 46:4 51:20</p> <p>penalty 5:18</p> <p>penetrate 52:18 63:8 68:23</p> <p>penetrated 57:7 63:2</p> <p>penetrating 57:25 63:10,12</p> <p>penetration 52:23 58:5</p> <p>peralta 2:13</p> <p>percent 11:20 11:22 22:1,7 22:14 23:8,13 28:14 29:15,23 46:8,9 59:13 61:15,16 63:1 76:19,22 91:6</p>	<p>91:7</p> <p>percentages 61:3</p> <p>perfect 41:7,11 97:8 108:8,9</p> <p>perfing 90:14 90:22</p> <p>perforate 52:20</p> <p>perforated 57:2 61:12</p> <p>perforations 71:14</p> <p>performance 91:13 92:1,25</p> <p>performer 81:22 82:2</p> <p>performing 88:8,15,18 93:10</p> <p>period 13:20</p> <p>perjury 5:19</p> <p>permian 87:11</p> <p>permit 7:13 8:21 49:22 50:2 51:14 53:9</p> <p>permitted 10:4 58:4</p> <p>person 43:16 43:21</p> <p>personally 28:4</p> <p>pertinent 34:12</p> <p>petroleum 5:9 5:10</p>	<p>peyote 50:15</p> <p>phone 101:2 107:25</p> <p>picture 37:16 37:23</p> <p>place 55:18 57:11 61:21 62:3 69:3 95:4 95:7 98:23 102:12 104:13</p> <p>plan 4:7 19:15 19:19,22 51:17 53:1,4,5,7,16 54:17 55:11 58:1,2 63:9 78:17 82:11 83:21,24 86:18 89:11,15,19</p> <p>plans 30:10 68:21 69:1,2 70:9 95:22</p> <p>plat 9:10 35:18 51:21</p> <p>play 16:8 17:5 70:22 79:2,4,6 80:14 81:19 88:19 93:19,23 94:2,4,5,20,21 94:22</p> <p>please 5:17 19:25 26:18,22 36:14 41:12 42:1 44:4 61:8 72:23 75:3,17 78:6 89:18</p>	<p>92:23 94:25 108:10 113:1</p> <p>plot 84:20</p> <p>point 10:20 25:12 26:16 29:22 38:22 40:8 51:22 52:10 58:5 61:5 70:14 71:19 72:18 74:4 81:4 84:10 86:3,10 87:19 108:22 110:7 111:17 112:3,14</p> <p>points 84:23 85:1,2,23 86:6</p> <p>pool 7:2 17:23 102:2</p> <p>pooled 27:24 28:7,8</p> <p>pooling 7:9 12:24 15:13 26:13,21 27:1 27:6 28:5 34:25 47:25 68:25</p> <p>portfolio 27:10 27:20,22</p> <p>portion 17:4 43:3 46:24 69:23 89:24 91:1</p> <p>position 7:1 23:12 39:17</p>
---	--	---	--

[position - purpose]

<p>77:8 99:3 102:15 possibility 64:17 post 70:21 96:9 potential 87:7 potentially 54:24 pre 35:3 85:16 predate 70:18 prefer 69:17 73:16 preferred 82:11 prejudices 99:20,24 prejudicial 103:25 104:3 prepared 42:13 111:1 116:3 present 2:18 presented 16:16,25 44:17 63:9 presents 37:10 preserve 19:3 90:17 press 110:21 prevent 19:15 89:11 previous 29:22 previously 28:24 71:3 printed 21:19</p>	<p>prior 14:19 30:6,9 34:6,10 34:20 115:5 prioritized 13:15 privy 67:4 problem 22:18 65:10 100:9 107:16 problematic 57:4 proceed 42:13 44:20 54:2 proceeding 1:16 27:1 114:3 116:4 proceedings 27:7 38:16 115:3,5,6,9 116:6 process 56:7 produce 111:6 111:7 produced 23:24 producing 12:2 61:14 production 14:1 30:7 58:11 60:1 61:13,15,21 62:19,23 79:7 81:13,15,19,22 88:21 91:8,16 91:20 92:7,13</p>	<p>93:3 productive 59:4,9,13 82:8 82:19 91:6 productivity 88:16 progressing 69:22 progressively 80:17 project 82:18 projected 85:19 proper 62:6 property 67:23 proportions 61:3 proposal 14:20 14:24 15:22 16:1,25 32:11 32:24 34:14 44:3,17 45:11 46:20,23 51:10 55:12 56:19,23 77:17 82:21 88:3 proposals 15:1 19:6,17 27:23 34:14 38:18 48:22 77:19 82:25 84:25 85:3,10,25 86:7 87:1 propose 30:10 49:1 68:11</p>	<p>82:14 proposed 14:25 19:11 30:15,19 42:14 46:7,25 47:15 48:7,15 48:24 49:1 59:4,21 63:14 63:19,25 64:6 64:11 68:3 69:16 77:10,15 78:10,17,20 82:5,17 85:6 86:11 87:8,13 99:5 106:20 proposing 30:14 43:8 44:12 81:11 88:2 proprietary 54:25 protect 19:16 89:12,20 protest 14:7 provide 10:24 39:17 48:18 96:4 99:18 provided 6:5 54:15 76:1,12 77:24 86:21 public 70:3 115:23 publicly 12:19 purpose 1:7 37:21,22 40:13</p>
--	--	--	---

[pursue - record]

<p>pursue 42:7,20 pursuing 29:12 put 85:13 106:7 106:8 107:20 111:10</p>	<p>74:6 90:4 95:14 96:12 quick 10:23 110:24 quickly 110:5 111:15 quite 37:8 64:19 75:6 87:20</p>	<p>84:18 reason 16:25 33:16 88:14 98:4 99:10 101:16 109:15 reasons 20:1 67:24 89:19 reassigned 28:21 29:4 reassignment 28:20 reassignments 12:5,8,11,12,15 13:1,4 29:11 29:20 rebecca 44:11 45:11 rebecca's 42:3 rebut 35:7 rebuttal 5:6,12 5:12 7:17,18 8:7 10:24,25 33:14,18,19,20 35:13,16,17 36:6,19,21,24 37:7 38:15,24 41:1 49:18 50:7 76:13,15 77:24 78:4,6 83:11,12,25 84:3,15 97:4 97:13 99:5,11 99:18 100:7,18 102:21 103:3 104:17,21</p>	<p>105:1 rebutting 38:25 39:2,5 recall 7:11 32:18 41:17 92:4 receive 27:23 84:25 received 8:12 19:5 29:10 38:9 57:5 84:11 85:3,6 85:16 86:1,6 86:25 87:15 105:2 receiving 85:19 91:7 111:3 recent 70:20 81:23 recently 14:1 30:22 81:7 recommended 63:21 64:1,8 record 11:17 11:23 12:6,9 12:18,21 23:12 29:15,17,22 37:3 38:21 42:1 50:7 65:10 74:19,20 74:22 96:25 97:4 102:25 103:2 105:5,6 106:21 107:7 110:1 113:9,15</p>
<p>q</p>	<p>r</p>		
<p>qualified 25:11 115:7 quality 79:8 88:24 89:23 quarter 9:18 57:12,12,20,21 question 16:24 22:19 23:3 36:11 40:10 43:24 55:14,16 55:23,24 56:16 58:25 61:6 62:10 64:6 67:6,19 68:9 69:9 70:1 83:8 90:20,21 91:22 92:22 93:6,16 93:21 94:9,12 94:16,18,24 95:18,23,25 101:6 102:8 103:19 questioned 42:25 questions 20:6 26:17 39:8 49:6,10 55:25 64:23 66:19,24 68:2 73:2,16</p>	<p>r 2:1 5:1 raise 5:17 96:15 ramp 93:19,23 93:24 random 104:13 rapidly 103:19 rather 69:18 113:5 rcx 3:2 rdx 3:2 reached 13:3 19:12 53:12 56:13 72:7 read 41:25 reading 62:5 ready 109:2 111:18 real 107:9,11 113:8 realized 99:13 really 10:23 11:8 25:16 26:18 40:15 49:10 80:13,20</p>		

<p>115:9 116:5 recorded 115:6 recording 115:8 116:4 records 97:6 red 79:18 85:2 86:6 redirect 73:5,8 74:8 96:16 reduced 88:25 115:7 refer 52:2 reference 45:2 referenced 78:12 referring 8:22 43:13,15,16 47:17 71:11,12 85:14,15 reflect 86:8 reflected 32:16 32:19 99:4 reflecting 82:25 reflects 62:14 reframe 62:10 regional 78:9 regularly 87:5 relate 32:11 related 72:22 94:13 97:12 115:11 116:7 relates 84:6 relative 19:20 115:13 116:10</p>	<p>relatively 81:18 relevance 34:4 40:10 54:23 relevant 23:1 34:4,5,18 35:4 38:6 reliability 25:22 26:21 reliable 86:22 107:12 remaining 44:19 46:15 47:18,21 remediation 67:24 remember 23:19 remind 74:25 75:3,16 remote 1:16 repeat 54:18 83:8 93:20 rephrase 23:2 43:23 44:5 92:22 reported 1:18 reporter 75:4 105:19,21 107:19 108:1 111:7,10 represent 79:18 83:20 84:24 85:1 110:10 112:17</p>	<p>representation 22:5 representations 39:2 representatives 14:17,18 represented 31:2 49:21 represents 86:4 request 33:18 48:1 98:12 107:10,20 109:2,5 111:11 requested 25:17 48:4 requesting 7:12 71:7 98:9 require 98:5 104:23 110:11 110:12 required 12:13 13:18 33:9 52:24 requiring 97:24 researched 30:6 reserves 95:8 95:11 reservoir 82:8 88:24 resolved 43:10 44:14 resolving 48:15</p>	<p>resource 79:8 80:15,18 83:21 89:23 resources 1:2 respect 21:23 29:14 45:9 63:6 responded 38:9 response 12:24 16:21 32:24,25 42:3 67:13 responsible 13:22 rest 37:12 96:22 result 19:22 53:24 82:7,17 89:15,20 90:23 91:8 resulting 54:7 80:19 resume 24:7,12 27:13 revenue 91:7 reverse 103:5 review 77:19 87:5 91:23 112:7 reviewed 6:22 38:4 77:4 81:12 reviewing 12:20 revised 97:24</p>
---	---	---	---

[revisit - shaheen]

<p>revisit 42:14 rig 10:12 53:13 right 5:17,25 13:16 22:8 23:14 24:20 26:16 27:2 29:5,16 31:13 31:14 32:7 33:7 39:14 41:6,10 46:16 47:4 48:8,16 49:23 50:15,24 51:2,10 52:11 52:12 56:4 60:13,13 62:16 64:1,25 66:12 66:17 68:14 69:1 70:18 73:3 74:7,10 74:13,21 75:20 78:3 79:23 96:13,18,20 97:14,16 99:2 99:14 101:9 104:11,11 105:23 106:16 106:21 107:1 108:14 110:17 rights 19:16,23 89:12,16,20 riley 87:11 risk 15:8 18:11 51:9 rocky 101:25</p>	<p>role 27:9 room 11:11 royalties 61:17 rule 37:8 ruling 58:23 running 20:11 79:20</p> <hr/> <p style="text-align: center;">s</p> <hr/> <p>s 2:1 4:1 5:1,24 safety 67:24 sake 99:13 santa 1:17 2:6 2:14 satisfy 33:18 40:2 save 83:6 saving 83:18 saw 83:10 saying 26:7,10 27:13 40:13 53:19 60:10 92:4 says 24:19 31:13 32:6 37:11 46:6,14 scope 37:10 screen 7:19,21 15:18 21:2 31:15 41:17 78:5 screens 70:2 screenshare 68:4,5 second 15:17 21:1 45:23</p>	<p>74:23 secondly 39:4 section 7:3,14 9:15,17,19 10:2,16 16:5 17:12 46:10 51:17 57:12 59:14 63:20 64:1,7 68:22 68:23 71:24 77:11 80:5,7 81:3,8,9,10,25 82:1,4 96:7 see 7:20 12:17 12:20 15:17 20:23 21:24 22:2,18 27:13 31:12,15,19 32:3,7,14,21 35:10 40:6 41:23 52:6 60:7,10 62:16 70:1 71:22 75:8 79:17,19 80:2,4,21 82:19,20,22 84:23 85:25 86:5 87:20,24 89:5 99:19,24 100:20 101:3 110:15 111:16 112:18 seem 89:1 seems 25:3</p>	<p>seen 85:19 86:14 87:5 89:6 107:11 sees 110:10 send 108:3 111:22 sense 99:7 sent 32:12 38:18 82:25 separate 98:17 september 38:19 70:25 101:21 service 110:7 set 110:22 sets 15:20,21 85:5,10 setting 61:5 seven 35:21 106:3 112:12 112:13,19 several 18:9 47:4 53:20 113:2 shaheen 2:11 3:5,9 7:25 8:4 20:7,12,13,15 20:16,20,22,23 20:25 21:4,5 21:11,16,17,20 21:23 22:4,12 22:20 23:2,5,6 23:11,17,21,24 24:4,8,10,11,14 24:18,23 25:6</p>
---	--	--	--

[shaheen - situation]

25:7,10,14,19	54:3,6,14,21	104:1,16,18	99:14 100:4
25:21 26:2,3,9	55:1,2,3,4,9,15	105:8,9,18,20	showed 71:13
26:12,16,23,24	56:1,4,5,6,10	106:14,17,22	71:17 72:1
26:25 27:4,12	56:14,18,22,25	106:25 107:22	showing 78:7
28:3,12,18,23	57:5,10,15,19	107:25 108:2,6	84:19
29:3,10,14,21	57:24 58:3,8	108:9,13 109:1	shown 53:8
29:25 30:3,9	58:11,17,18,19	109:5,9,14,20	76:15 84:24
30:15,18,25	58:21 59:2,3,8	110:4,4 111:17	85:1 87:19
31:6,11,16,17	59:12,17,25	112:2,5,21,24	shows 29:22
31:22 32:1,4,5	60:5,9,11,12,15	113:2,11,12,16	35:18 38:8
32:10,16,20,22	60:19,22 61:4	114:1	68:14 76:13
33:2,5,10,13	61:9,10,11,23	shaheen's	78:8,10 84:16
34:5 35:8 36:4	61:24 62:1,9	104:14	84:17
36:8,17,20	62:12,13,18,21	shape 79:20	sic 50:3 76:14
37:1,6,17,25	62:25 63:5,13	share 7:18	signature
38:8,23 39:1	63:19,24 64:5	20:20 21:6,10	115:21 116:16
40:2,5,21,22	64:10,15,22	21:21 24:5	significance
41:12,14,15,16	65:1 66:5,7,8	41:17 45:2	80:21
41:20,25 42:5	66:10,13 68:1	78:5	significant
42:17 43:6,12	74:8,9 84:4,5	sharing 10:23	18:11 78:24
43:15,20,23	90:6,7,9,10,12	21:1 69:5	89:24
44:6,8,24 45:5	90:20 91:2,5	sharon 2:11	significantly
45:9,15,18,19	91:12,16,19,24	20:18	86:1
46:3,5,6,13,18	91:25 92:6,12	shelbi 3:3 5:8	similar 66:25
47:2,8,12,15,19	92:21,24 93:3	5:15	67:6,19
47:22 48:1,6	93:9,12,15,18	shelf 93:19,23	simple 103:19
48:10,14,21	93:22 94:1,6	short 102:9	103:20
49:3,7,8,17,19	94:10,11,15,17	shorter 110:19	simply 78:25
49:20 50:1,6	95:2,3,7,10,13	show 7:16	single 35:4
50:11,14,17,21	95:16 97:7,9	11:14 14:8	100:17
50:23 51:1,5,8	97:11 98:3,11	15:15 34:25	sir 75:19
51:16,20,25	99:14 102:16	36:6 51:14	sitting 86:16
52:3,7,9,11,12	102:18,20,24	54:19 78:13	situated 79:7
52:16,17,25	103:8,11,12,16	83:11 85:4	situation 16:12
53:6,11,14,23	103:16,17,21	88:15 97:6	16:12 91:11

[six - support]

<p>six 14:17 skills 115:10 116:6 slightly 88:4 solid 91:24 soonest 111:6 sorry 5:25 7:17 9:16,20 11:3 15:21 20:25 31:17,22 37:4 39:3 43:12,20 44:25 45:19,20 52:5 55:3 56:18 58:21 60:7 66:10 70:23 71:15,16 72:12 75:10 81:6 83:7 87:16 90:12 99:20 107:4 sort 58:19,23 sounds 58:24 66:6 74:14 106:7,9,11 south 7:3,13 9:16,17 35:2 46:9 52:15 77:13 79:20 80:8,15,23 81:7,8,20 southwest 9:18 57:12,12,20,21 78:19 spacing 9:1,11 59:23 77:12</p>	<p>80:2,2,11,25 82:5 speak 7:5 11:9 25:18 75:3,17 speaking 6:16 25:18 79:12 82:13 specific 55:7 99:2 specifically 9:18 11:16,25 26:17 spencer 2:12 spencerfane.c... 2:15 spencerfane.c... 108:5 spend 40:16 61:2 spent 25:23 split 47:18,21 spot 88:20 spur 80:24 81:5 81:23 87:11 sshaheen 2:15 108:5 stack 99:7 stands 109:2 start 10:11 12:23 27:15 37:23 53:10 101:23,24 103:11 104:13 104:15 105:8</p>	<p>started 13:1 27:19 34:21 101:16 starting 11:16 96:3 103:25 state 1:1 23:7 28:14,19,20 42:3,7,9 44:8 45:5 56:8,13 56:14 61:14 63:6 91:5,8 92:16 115:24 stated 95:21 statement 14:6 19:4 20:17 22:6 28:13 42:18 85:16 88:7,12 102:13 statements 10:24 85:14 109:6,10 states 12:1 16:18 19:2 24:15,23 62:2 status 11:18 111:1 statute 62:5 step 77:12 steps 53:4 stick 100:21 stipulation 8:10 stole 68:2 stop 10:23 21:1</p>	<p>stranded 18:2 structure 43:8 44:13 subexhibits 6:9 76:5 subject 22:15 26:17 46:10 49:15 submission 113:6 submissions 113:3,4 submit 110:5 submitted 6:22 37:16,24 40:4 50:2 70:7 71:6 72:23 73:11 77:4 83:24 subsequently 17:23 substance 38:15 substantial 78:9 substantially 87:4,10 substantiation 89:2 suggests 96:5 suite 2:5 summarize 19:25 89:19 support 23:22 25:8 69:19 78:17 80:18</p>
---	--	---	---

[support - think]

<p>89:5 98:18,19 99:3 101:25 102:13 supports 102:15 suppose 46:22 sure 6:15,17 22:17,21 25:4 48:5 55:6 56:20 57:3,9 60:3 99:24 108:3 surface 9:12,23 10:2,5,15,19 35:19 62:3,20 68:20 69:21 73:22 surprise 95:3 sustain 49:9 58:25 80:16 swap 70:1 swear 5:18 sweet 88:20 102:9 sworn 115:5 system 89:1</p>	<p>taken 19:3 53:4 55:18 115:3,12 116:9 takes 13:14 talk 14:2 35:9 38:12 65:3 68:11 103:22 105:17 talked 68:23 71:20 talking 17:2,3,6 17:7,11,13 19:12 36:16 67:11 80:12 talks 68:15 team 28:6 team's 17:14 technical 2:21 technically 108:21 tell 8:17 9:11 14:12 51:21 78:6 82:10 84:16 101:4 telling 56:12 ten 10:11 53:10 56:1 109:16 110:20 111:2 112:1,11,19 tenure 30:8 term 11:24,25 12:3,17,18,20 13:23 15:2 17:8 28:24 29:2,7,8 42:11</p>	<p>42:22,23 43:1 43:2 44:18 47:5,7 101:20 terminate 15:12 termination 13:10 terms 12:18 15:6 16:15 42:13 80:2 testified 27:1 58:15 testifying 115:5 testimony 5:19 6:6,18,18 7:12 10:25 11:15 14:6 15:16 18:18 21:13 22:4 23:22 24:3 25:5,22 31:1 49:12,21 61:20 62:8 76:1,9,25,25 80:23 98:19 99:9 101:18 testing 93:19 93:23 texas 24:24 26:8,12 thank 5:14,24 6:4,21 8:3,10 8:14 13:13 20:5,9,11,13 21:14 23:4 33:13 36:2</p>	<p>40:22 41:11,14 49:16 59:1 62:25 64:22,23 65:1 73:4 74:9 74:19 75:9,11 75:22 77:3,23 84:8,13 90:3,7 91:2,5 93:16 95:14,15 96:14 96:19,20 102:23 105:10 105:11 108:6 113:13,17,19 113:21,22,24 that'd 66:16 theirs 70:15 theme 87:3 thickness 88:25 thing 74:3 87:12 97:23 things 8:1 16:3 34:21 101:24 think 18:22 22:10,22 25:9 33:8 34:17,22 35:3,22 38:14 38:20 39:16,24 40:16 51:13 54:24 57:4 63:10 64:5 66:13 68:14 69:15,25 70:8 70:17 71:9,10 71:10 73:14 77:10 81:24</p>
<p>t</p>			
<p>t 4:1 table 113:8 take 48:25 51:22 52:10 62:3 66:5 70:14 71:18 72:18 74:15 98:22 108:15</p>			

[think - two]

<p>82:15 91:22 93:15 94:14 99:6 102:9 105:9 thinking 99:21 third 21:24 41:21 46:4,13 thirty 9:20 thought 22:24 22:24 55:16 60:24 98:4 99:12 100:3 102:12 104:6 104:19 thread 86:2 three 9:20 14:16 41:22 65:9 74:15,19 85:10 98:17 99:2 100:22 103:9 111:12 time 1:14 6:13 13:19 16:23 18:22,24 19:8 25:12,23 29:16 34:6,11 40:16 41:8,22 42:2,6 43:2 48:25 51:7 58:10 61:2 64:19 65:13,16,24 66:1 67:15 69:14 76:10 84:3 87:1 104:2 105:10</p>	<p>108:17 109:19 112:7 timeframe 110:20 timeline 31:3,8 31:9 32:17 33:25 36:10 38:17 41:9 44:25 45:1 95:24 98:23 100:9,14 104:7 timelines 70:6 timely 104:9 times 18:9 27:25 53:20 86:7 timing 10:8 65:3 title 11:17,24 12:6,21,23 23:13 29:15,18 29:22 today 5:7 6:17 23:22 26:19 31:2 65:4,22 76:25 86:16 108:16 109:13 today's 38:6 together 34:23 51:12 told 10:7,10 45:13 ton 106:5 took 27:8</p>	<p>top 24:14 88:8 88:15,18 totally 100:16 toward 79:23 tract 22:15 28:19 52:19,20 57:6 59:19,20 59:23 60:16 61:14 62:21 63:2,2,12 90:14,23 tracts 11:20,22 13:15 22:2,11 23:9,14 60:6 60:13 61:12 69:10,12 trade 45:11 48:7 transcriber 116:1 transcript 107:8,9,18 108:12,21,23 109:18 111:3,6 111:8,22,24 116:3,5 transcript's 111:18 transcriptionist 107:20 115:8 transcripts 108:15 109:3 109:23 translating 88:22</p>	<p>trend 78:10 79:17 82:23 84:18 86:15 90:2 tried 97:2 true 23:11 115:9 116:5 truth 5:20,20 5:20 trying 35:6 36:6 52:5 55:7 55:9 59:6 60:20 103:20 tschantz 2:19 108:10 111:23 turn 18:14 24:4 33:14 62:9 turned 70:14 71:2 turning 20:16 28:12 30:25 41:16,20 45:15 51:20 62:13 twice 102:1 two 5:23 11:22 27:11,15 32:10 38:1 41:22 65:12 78:15 85:22 87:24 96:9,9 103:8 103:14 104:25 108:15,15 110:25 112:10 113:4</p>
--	---	---	---

[type - we've]

<p>type 16:11 19:18 typewriting 115:7 typically 108:15 110:15 110:18,18</p>	<p>100:11 understands 22:14,23 understood 16:2 49:20 98:8 106:22,25 109:1</p>	<p>79:1,20,23 80:9,24 81:8 81:20 82:5 95:4 varied 91:20,21 92:13 varies 92:7 variety 86:7 various 48:22 vary 91:16 93:3 varying 86:1 92:10 venture 46:19 47:16 verbally 18:9 53:21 veritext 111:13 versus 36:18 vertical 15:10 17:23 44:22 54:13 69:12,18 69:23 viable 69:15,20 73:25 videoconfere... 2:20,22 view 69:20 viewed 58:7 violate 19:22 89:15</p>	<p>waived 84:6 walk 54:21 55:6 want 6:17 16:20,21 20:18 25:16 26:20 28:8,8 45:25 55:5 65:2,20 68:4 88:6 98:11 99:16 100:16 102:16 103:11 105:18 105:24 106:7,7 107:24 110:4 112:5,16,17 wanted 14:20 15:4 17:20 102:12 wants 7:2 waste 19:15,22 25:12 89:11,15 89:20 90:15,23 91:8 wasteful 63:5 way 26:7 37:15 87:3 90:1 92:13 we've 7:3 12:11 16:6 25:3 29:12 55:23 68:23 69:16,22 70:4 86:1,6,14 86:25 87:4 89:6 99:1 101:10 105:4</p>
<p>u</p>	<p>undisputed 40:7 unit 9:1,11 28:16 29:15 57:16,21,25 82:5 unnecessary 98:21 unproductive 88:5 89:25 unreasonable 109:25 unrelated 15:3 16:7 update 72:19 use 86:17 uses 106:4 using 69:7 81:18</p>	<p>view 69:20 viewed 58:7 violate 19:22 89:15</p>	<p>wanted 14:20 15:4 17:20 102:12 wants 7:2 waste 19:15,22 25:12 89:11,15 89:20 90:15,23 91:8 wasteful 63:5 way 26:7 37:15 87:3 90:1 92:13 we've 7:3 12:11 16:6 25:3 29:12 55:23 68:23 69:16,22 70:4 86:1,6,14 86:25 87:4 89:6 99:1 101:10 105:4</p>
<p>uh 26:3 ultimately 21:25 23:8 96:6 un 108:23 unable 15:14 uncertainty 83:22 unconventional 27:20 under 5:18 15:1 16:14 43:4 47:23 58:12 61:16 75:3,17 110:2 understand 16:1,19 26:4 28:7 33:15 37:20 44:1,2 47:2 67:17 102:15 104:14 109:8 111:25 112:1,13,14 understanding 7:1 18:5 22:13 43:6 44:10 52:18 77:8</p>	<p>v</p>	<p>wait 58:19,23 65:21 waiting 65:4</p>	<p>w</p>
<p>valid 12:14 26:16 van 7:4 14:7 15:3,5 16:8 17:2,3,7,18 18:6 42:8,21 44:4 47:1 78:10,17,20,24</p>	<p>valid 12:14 26:16 van 7:4 14:7 15:3,5 16:8 17:2,3,7,18 18:6 42:8,21 44:4 47:1 78:10,17,20,24</p>	<p>wait 58:19,23 65:21 waiting 65:4</p>	<p>w</p>

[website - yeah]

<p>website 70:3 wednesday 109:23 111:12 week 85:17 109:6,13 110:12,13 weeks 108:15 108:15 110:25 112:10 welcome 110:6 wells 7:13 12:2 14:1 17:18 18:7 19:18 30:14,16 42:20 43:11 44:15 48:19,24 49:4 58:3 63:14,20 63:25 64:7,11 64:14 67:2 68:22,24 73:17 76:14 77:11 78:14,23 80:5 80:7,23,25 81:3,6,9,10,13 81:16,23,25 82:1,4,8 88:8 88:15,18 93:10 96:7 went 35:2 west 9:18 52:3 52:15,20 white 41:21 willing 39:20 40:11,15 73:22</p>	<p>withdraws 8:2 withdrew 14:7 34:24 witness 3:2 5:15 21:6 22:23,24 26:22 39:20 40:11 60:20 61:2 74:23 90:5 99:25 115:4 witnesses 113:22 wonderful 66:16 wondering 98:4 word 40:12 words 14:13 work 24:24 28:6,9 63:23 68:8 106:13 108:9 111:21 112:4 working 11:20 12:11 13:1 16:20 17:9 19:7 22:1 23:8 23:13 24:15 27:14,15,19 34:23 42:9,21 42:24 51:12 68:19 83:1,4 83:10 101:1 works 106:14 106:17</p>	<p>worries 6:1 worst 82:1 writing 53:21 written 6:18 51:5 76:25 105:24 wrong 45:20,21 45:22,24</p> <hr/> <p style="text-align: center;">x</p> <hr/> <p>x 3:1 4:1 84:22 xto 2:2 4:4,6 5:4,7 7:7,12,22 8:12 11:19,21 11:23 12:5,6 12:20,22,25 13:14,18 14:3 14:7,17 15:1,2 15:4,5,22 19:2 21:25 22:6,10 22:14 23:7,12 27:24 28:14,21 29:4,15,17,18 29:20,23,25 30:4,10,18 31:13 32:6,13 34:18 36:9 37:16,19,24 38:10 41:1 42:23 43:9 44:2,13,17 46:7,23,24,25 47:13,24 48:1 48:3,12,18,22 48:23 51:11 52:25 53:18</p>	<p>54:4,6 56:22 57:15 60:2 63:16,19 66:25 67:7,15,19 68:3,18 69:9 71:11 74:1,2,3 82:24 83:1,4,5 83:9,14 84:11 85:6 86:17 95:22 101:19 104:23 105:14 113:4,19 xto's 5:11,15 7:17 9:13 10:5 11:17 14:16 15:12 18:1 19:13,22 20:4 27:10,19 39:17 43:3 48:19 51:2,4,9,15,23 51:25 52:4 53:24 57:20 58:6 59:20 62:21 67:9 71:23 76:15 82:11 84:9 89:15 105:1</p> <hr/> <p style="text-align: center;">y</p> <hr/> <p>y 84:21 yeah 9:17 42:4 42:6 43:19 56:17 60:11 67:10 71:1 72:12 92:21 96:10 101:8</p>
--	--	---	--

[yeah - yesterday]

103:3,21

year 27:25 71:5

96:9,9 100:23

100:23 101:13

years 13:16

27:11,15 96:11

yeso 30:11,19

30:23 77:16

78:10 79:2,4,6

81:3 84:18

88:8,15 90:2

93:18,19,22,23

yesterday 5:4

7:12 8:22

11:16 14:4

66:25 67:19

80:22 109:6

New Mexico Rules of Civil Procedure for the
District Courts

Article 5, Rule 1-030

(e) Review by Witness; Changes; Signing.

If requested by the deponent or a party before completion of the deposition, the deponent shall have thirty (30) days after being notified by the officer that the transcript or recording is available in which to review the transcript or recording and, if there are changes in form or substance, to sign a statement reciting such changes and the reasons given by the deponent for making them. The officer shall indicate in the certificate prescribed by Subparagraph (1) of Paragraph F of this rule whether any review was requested and, if so, shall append any changes made by the deponent during the period allowed.

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VERITEXT LEGAL SOLUTIONS

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